

# The Gazette of India

EXTRAORDINARY  
PART II—Section 2  
PUBLISHED BY AUTHORITY

---

No. 25A] NEW DELHI, SATURDAY, AUGUST 17, 1957/SRAVANA 26, 1879

---

## LOK SABHA

---

The following report of the Select Committee on the Bill to provide for the levy of wealth-tax, was presented to Lok Sabha on the 17th August, 1957:—

### Composition of the Select Committee

1. Shri Asoke K. Sen—*Chairman*
2. Shri H. C. Heda
3. Shri Prafulla Chandra Borooah
4. Shri R. Jagannath Rao
5. Shri Muhammed Khuda Bukhsh
6. Shri Narendrabhai Nathwani
7. Shri Shivram Rango Rane
8. Shri Anand Chandra Joshi
9. Dr. G. S. Melkote
10. Shri G. S. Musafir
11. Shri G. D. Somani
12. Shri Radheshyam Ramkumar Morarka
13. Shri Feroze Gandhi
14. Shri C. D. Pande
15. Shri Tribhuan Narayan Singh
16. Shri R. M. Hajarnavis
17. Shri M. R. Krishna
18. Shrimati Tarkeshwari Sinha
19. Dr. Ram Subhag Singh
20. Shri Nemi Chandra Kasliwal
21. Shri Saif F. B. Tyabji
22. Shri Fatehsinhrao Pratapsinhrao Gaekwad
23. Shri K. Periaswami Gounder

( 438/1 )

24. Shri B. R. Bhagat
25. Shri U. Srinivasa Malliah
26. Shri N. G. Ranga
27. Shri T. C. N. Menon
28. Shri Prabhat Kar
29. Shri Bimal Comar Ghose
30. Shri Laisram Achaw Singh
31. Shri R. K. Khadilkar
32. Shri M. R. Masani
33. H. H. Maharaja Sri Karni Singhji of Bikaner
34. Dr. A. Krishnaswami
35. Shri T. T. Krishnamachari.

DRAFTSMAN

Shri G. R. Rajagopaul, *Additional Secretary and Chief  
Draftsman, Ministry of Law.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

**Report of the Select Committee**

1. the Chairman of the Select Committee to which the Bill\* to provide for the levy of wealth-tax was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 15th May, 1957. The motion for reference of the Bill to a Select Committee was moved by Shri T. T. Krishnamachari on the 16th July, discussed in the House on the 16th and 17th July and adopted on the 17th July, 1957.

3. The Committee held 12 sittings in all.

4. The first sitting of the Committee was held on the 23rd July, 1957 to draw up a programme of work. The Committee at this sitting decided to hear evidence of associations desirous of presenting their suggestions or views before the Committee. The Chairman was authorised to decide, after examining the memoranda submitted by them, as to which of the associations should be called to tender oral evidence before the Committee.

5. At the second sitting of the Committee held on the 31st July, 1957, the Committee had a general review of the provisions of the Bill.

---

\*Published in Part II, Section 2 of the Gazette of India Extraordinary dated the 15th May, 1957.

b. At the 3rd, 4th, 5th and 6th Sittings, the Committee heard the evidence tendered by 17 associations.

The Committee have decided to lay the whole of the evidence tendered before them on the Table of the House.

7. Thirty-one memoranda/representations on the Bill were received by the Committee from different associations/individuals.

8. The Committee considered the Bill clause by clause at their sittings held on the 8th, 9th, 10th, 12th and 13th August, 1957.

9. The report of the Committee was to be presented by the 12th August, 1957. The Committee were granted extension of time on the 12th August, 1957 upto the 17th August, 1957.

10. The Committee considered and adopted the Report on the 14th August, 1957.

11. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

12. *Clause 2. (1) Original item (a).*—The definition of adviser has been omitted as unnecessary in view of the amendments made to clause 24.

(2) *Item (e) (iii) [Original item (f) (iii)].*—In the opinion of the Committee, livestock and animals intended for the personal or household use of the assessee should not be subject to wealth-tax. The Committee has therefore excluded animals as a category from the definition of assets.

The Committee feel that tools and implements in use for the raising of agricultural produce should be exempt from the Wealth-tax. This entry has now been removed to clause 5.

(3) *Item (e) (iv) [Original item (f) (iv)].*—In the opinion of the Committee, a right to annuity should be excluded from assets only if commutation of any portion thereof is precluded by the rules applicable thereto. The item has accordingly been split up. The period of five years referred to in the original item (f) (iv) has been increased to six years in order to bring it in line with the pattern of the Indian Income-tax Act, 1922.

(4) *Item (m) [Original item (n)].*—It has been clarified that debts relating to assets which are exempt from Wealth-tax are not to be deducted from the gross wealth of the assessee.

*New item (p).*—A definition of "Ruler" has been inserted in view of certain provisions made in clause 5.

*Item (q).*—The amendment is clarificatory in nature.

13. With regard to the definition of 'net wealth', the Committee have noted the assurance given by the Minister of Finance that if any asset referred to in the said definition was lost or stolen or destroyed, it would not be included in computing the net wealth of an assessee provided the same had not been insured and that necessary instructions in this respect would be issued to the authorities concerned.

14. In connection with the definition of 'company', the Committee considered the question as to whether companies should be excluded from the purview of the Bill. The Committee are of the opinion that companies should not be excluded from the purview of the Bill.

15. *Clause 4.*—The Committee feel that avoidance of wealth-tax by the original transferrer by reason of the transferee converting the assets transferred into other assets should be prevented.

The Committee also feel that the expression 'irrevocable transfer' should be clearly defined.

The Committee consider that some bonafide transfers might have been effected in the past either with or without adequate considerations. They feel that there should be a demarcation line to distinguish such transfers from those that may have been effected after the introduction of the Bill to avoid the tax. The Committee further feel that in making rules for ascertaining the interest of an assessee in a firm or association, the rule making authorities should be guided by some principles like those contained in the Partnership Act, 1932, for example.

The clause has been recast accordingly.

16. *Clause 5. (1) Item (i).*— It has been clarified that properties held for any public purpose of a charitable or religious nature in India should be exempted.

(2) *New item (iii).*—The Committee are of opinion that having regard to the covenants and agreements entered into by the Government of India with the former Indian Rulers, one building in their occupation should be exempt from wealth-tax.

This new item has accordingly been inserted.

(3) *New item (iv).*—The Committee consider that no exemption should be given in respect of any property used by an assessee solely for the purposes of his own residence. However, to avoid any hardship in respect of houses situate in rural areas, the Committee feel that one house belonging to the assessee exclusively used by him for residential purposes and situate in a rural area should be exempted.

This item has therefore been inserted.

(4) *New item (v).*—This item has been inserted in order to **make** it clear that a vested interest which is not in the possession or enjoyment of the assessee should not be included in his wealth.

(5) *Item (ix) [Original item (vi)].*—The Committee are of opinion that there should be total exemption for household assets other than jewellery and in the case of jewellery exemption upto the value of twenty-five thousand rupees should be provided.

The original item (vi) has been recast accordingly.

(6) *New item (x).*—Tools and implements used by the assessee for the raising of agricultural produce should in the opinion of the Committee be exempt from Wealth-tax, but not plant or machinery used in any tea or other plantation in connection with the processing of any agricultural produce or in the manufacture of any article from such produce.

This new item has therefore been inserted.

(7) *Item (xi) [Original item (viii)].*—In the case of tools and instruments necessary to carry on one's profession or vocation, the Committee feel that in view of the present high prices of such tools and instruments, the exemption limit should be raised from two thousand and five hundred rupees to ten thousand rupees.

(8) *Item (xiii) [Original item (iii)].*—The Committee consider that drawings, paintings, photographs, prints and other heirlooms, not intended for sale should also be included in the list of exemptions. They, however, consider that for the purposes of exemption, heirlooms, should not include jewellery.

The original item (iii) has been recast accordingly.

(9) *New item (xiv).*—So far as Rulers of former Indian States are concerned, in view of the fact that certain jewellery has been treated as State property and certain jewellery as personal properties of the Rulers, the Committee feel that special provision should be made with regard to exemption of jewellery in the possession of any Ruler, not being his personal property which has been or may be recognised as his heirloom.

(10) *New items (xix) & (xx).*—This provides for the exemption of shares held by one company in another company, including shares held by a person in a company which is not for the time being liable to pay wealth-tax by virtue of the provision contained in Clause 45(d).

Such investments are in the nature of intercorporate investments which, in the opinion of the Committee require special consideration.

(11) *New item (xxi).*—The Committee feel that an exemption similar to that provided in Clause 45(d) should be available to companies which undertake substantial expansion of their undertakings. The exemption should be confined to that portion of the companies' assets which are employed in the new unit. For purpose of obtaining the exemption, the new unit should be a separate one with its own accounts and should satisfy the same conditions as are laid-down with respect to the undertakings mentioned in Clause 45(d).

This new item makes provision for this purpose.

(12) *New Sub-clause (2).*—The redraft makes it clear that although wealth-tax is not payable on the amount of deposits etc. they are to be included in computing the net wealth.

(13) *New sub-clause (3).*—In the opinion of the Committee, provision should be made to prevent avoidance of wealth-tax by an assessee changing his taxable investments into exempted investments nearabout the valuation dates.

This sub-clause has been inserted accordingly.

17. *Clause 6.*—The Committee feel that individuals and Hindu undivided families not resident or not ordinarily resident in India and companies not resident in India should obtain exemption in respect of their assets and debts outside India. At present the clause is confined to individuals who are not citizens of India or to Hindu undivided families or companies not resident in India.

The clause has been re-cast accordingly.

18. *Clauses 9, 10 and 11.*—The amendments are clarificatory.

19. *Clause 16.*—The amendment seeks to bring sub-clause (4) into line with the Indian Income-tax Act, 1922, so that the notice calling for accounts etc. is not issued to an assessee until he has made the voluntary return or has been served with a special notice for making such a return.

20. *Clause 17.*—The Committee feel that in order to avoid any harassment or hardship to the assessee, a time limit should be fixed for reopening cases of wealth escaping assessment. A period of eight years in respect of cases falling under clause (a) and four years in respect of cases falling under clause (b) appear to be reasonable for this purpose in the opinion of the Committee. The clause has been amended accordingly.

21. *Clause 18.*—This clause should vest the powers which are now vested in the Wealth-tax Officer on the Appellate Assistant Commissioner, Commissioner and the Appellate Tribunal also. This is in accordance with a similar provision in the Indian Income-tax Act, 1922.

22. *Clause 19.*—The amendment proposed in sub-clause (3) seeks to clarify that the executor or legal representative of a deceased person is also obliged to file a voluntary return.

23. *Clause 20.*—Sub-clause (i) has been amended so as to bring it into line with the Indian Income-tax Act, 1922, with respect to partition of Hindu undivided families. The amendment is intended to obviate different criteria being applied for income-tax and wealth-tax.

24. *Clause 22.*—An amendment has been made in sub-clause (1) to enable an assessment being made in the name of the agent of a non-resident principal, even though the principal himself is an Indian citizen but staying habitually outside India. A proviso has also been added to prevent any hardship to the agent.

25. *Clause 23.*—(1) *Sub-clause (1).*—The Committee feel that there should be provision for an appeal to the Appellate Assistant Commissioner against the levy of a penalty for non-payment of wealth-tax within the time specified. A new item (f) in this sub-clause has accordingly been inserted.

(2) *Sub-clause (4).*—The Committee feel that at the hearing of an appeal, the appellant should be permitted to go into any fresh ground not specified in the grounds of appeal.

The sub-clause has been recast accordingly.

(3) *Sub-clause (5).*—The amendment is clarificatory in nature.

26. *Clause 24.*—(1) *New Sub-clause (3).*—The Committee feel that there should be provision for condonation of delay by the Appellate Tribunal in cases of appeals presented out of time, if there is reasonable cause for the delay. This new sub-clause has been inserted accordingly.

(2) *Sub-clause (6) [Original sub-clause (5)].*—The Committee feel that the scope of the provision should not be restricted to immovable property only.

The Committee also feel that it would be fair that the arbitrators should consist of two valuers one of whom should be nominated by the appellant and the other by the respondent. In case of difference of opinion between the two valuers, the matter should be referred to a third valuer nominated by agreement or failing that by the Appellate Tribunal.

The sub-clause has been recast accordingly.

(3) *New Sub-clause (8).*—The procedure for disposing of any matter referred to the valuers has been laid down.

27. *Clause 25.*—(1)—*Sub-clauses (1) & (2).*—The Committee feel that following the pattern of the Indian Income-tax Act the Commissioner should be empowered to revise the order of a subordinate wealth-tax authority, even if such revision is in favour of the assessee.

These sub-clauses have been recast accordingly.

(2) *Sub-clauses (3) & (4).*—These sub-clauses have been omitted in view of the amendments made in clause 24 with respect to valuers.

28. *Clause 27.*—(1) *Sub-clause (1).*—The amendments provide that the Commissioner of wealth-tax may also apply for a reference to the High Court.

(2) *New sub-clause (7).*—The Committee feel that it should be specifically provided here that if as a result of any reference to the High Court, the amount of any assessment is reduced, the amount overpaid should be refunded with such interest as the Commissioner may allow.

This new sub-clause has accordingly been inserted.

29. *Clause 32.*—It has been clarified that the penalty levied under the wealth-tax Act also may be recovered in the same manner as under the Indian Income-tax Act.

30. *Clause 34.*—The Committee feel that anticipated liabilities should not be taken into account when the wealth-tax Officer gives the required certificate.

The clause has been amended accordingly.

31. *Clause 36.*—The Committee feel that specific punishment under the Wealth-tax Act in cases where a person who is bound to furnish information on demand under Section 38 fails to do so should be provided for.

A new item (c) in sub-clause (1) has accordingly been inserted.

32. *Clause 38.*—The Committee consider that any communication between a lawyer and his client should not be required to be disclosed.

A proviso has accordingly been added to this clause.

33. *Clause 43.*—The words "Save as otherwise provided in this Act" have been omitted being unnecessary.

34. *Clause 44.*—The Committee feel that in addition to the persons or class of persons mentioned in the original clause as authorised representatives of the assessee, any other person having such



qualifications as may be prescribed by rules made under this Act should also be permitted to function as an authorised representative.

The clause has been amended accordingly.

35. *Clause 45.*—In the case of industrial undertakings, the Committee feel that a “wealth-tax holiday” for a period of five years from the date of incorporation should be given to a company established for the purposes of carrying on an industrial undertaking engaged in the manufacture, production and processing of goods or articles or in mining or in generation or distribution of electricity or power.

The Committee also consider that in order to encourage shipping companies, some special consideration should be given to them. In the opinion of the Committee, shipping companies should be exempted from wealth-tax. The Committee further feel that charitable or other companies registered under Section 25 of the Companies Act 1956 should also be exempted.

New items (d), (e) & (f) have accordingly been inserted in this clause.

28. *Clause 46.*—The words “in cases where it is not easily ascertainable” have been omitted in order to enable rules being made to cover all cases where market value has to be determined.

37 *The Schedule.*— *Part I*—The Committee feel that in the case of a Hindu undivided family, the exemption limit should be raised in item (b) (i) from rupees three lakhs to rupees four lakhs and in item (b) (ii) the limit should be reduced from rupees ten lakhs to rupees nine lakhs.

Part I of the Schedule has accordingly been amended.

*Part II*—The Committee feel that some special consideration should be shown to a company which has incurred a net loss in any year and which has not declared any dividend on its equity capital in respect of that year. In the opinion of the Committee such a company should be exempted from wealth-tax for that year.

A proviso to Part II of the Schedule has accordingly been inserted.

*Rule 2.*—In rule 2, the word “private” has been omitted so that the benefit of this rule is available in respect of the value of shares in any company instead of any private companies only as originally proposed in the Bill.

*New Rule 3.*—The Committee feel that some special consideration should be given in respect of wealth-tax on the value of the Indian investments of non-resident foreigners. In the opinion of

the Committee a rebate of 50 per cent should be allowed in these cases

This new Rule 3 to the Schedule has therefore been inserted.

*New Rule 4.*—In the case of assets of an assessee being located partially in India and partially outside India, the Committee feel that a proportionate rebate of 50 per cent. in respect of assets located outside India should be given. This new Rule 4 has therefore been inserted.

*New Rule 5.*—The Committee feel that some special consideration should be shown to companies where the profits made in any year are less than the wealth-tax due for the relevant assessment year. In the opinion of the Committee in order to avoid hardship to such companies, the wealth-tax payable for the assessment year should be limited to the amount of profits. This new Rule 5 has therefore been inserted.

38. The Select Committee recommended that the Bill as amended be passed.

ASOKE KUMAR SEN,

*Chairman,*

*Select Committee.*

NEW DELHI ;  
The 14th August, 1957.

## Minutes of Dissent

### I

The proposed levy of Wealth Tax on Joint Stock Companies is bad in principal and contrary to the national interest. It is a matter for regret that the Select Committee turned down a proposal to exclude companies from the purview of this Bill.

2. The application of the Wealth Tax to companies, which represent the interests of thousands of shareholders, rich and poor, is altogether beyond the objectives of the tax. While conceding that the Wealth Tax is intended primarily as a measure of personal taxation, it is said that in the peculiar economic structure of India it is not possible to exclude companies from its purview. What this peculiar structure is which justifies this levy has not, however, been made clear. It is worth noting that even Professor Kaldor, who favours the introduction of an annual wealth tax, has not suggested that it be extended to corporate holdings.

3. Perhaps at no stage of our economic development has the need to promote savings been so critical as now, for it is mainly from savings within the country that the bulk of the resources must be found to meet the considerable investment which is required for development and expansion under the Second Five Year Plan. The Wealth Tax on companies is certainly among the most serious disincentives to industrial development outside the State sector. The cumulative effect of this new impost alongside of other existing ones will undoubtedly be to retard capital formation and discourage production which are so badly needed.

4. The Wealth Tax on companies will inevitably mean either double taxation on individuals who are liable to pay Wealth Tax themselves, or imposing the tax on small investors who are otherwise exempt and not liable to pay this tax. In so far as the first category is concerned, the Bill, oddly enough, gives relief from double taxation by way of a tax ceiling to those owning over Rs. 22,00,000 or more, but none to smaller investors.

5. The importance of the middle class investors in our economy cannot be overemphasised. A survey of the ownership of shares and securities in Bombay city, carried out by the Department of Research and Statistics of the Reserve Bank of India in 1955, should do a great deal to remove the misconceptions on this point that prevail in certain quarters. The survey shows that 59.5% of the

shareholders were persons having monthly incomes below Rs. 666/-; 17.5% had incomes between Rs. 666/- and Rs. 1250/-; 13.2% between Rs. 1250/- and Rs. 2500/-; and only 9.8% over Rs. 2500. The pattern of distribution also indicated that more than 73% of the total number of shares were held by various income groups below Rs. 2500/- per month, and only 27% were held by those with incomes exceeding that figure.

6. A concrete case will help to illustrate the point. The shareholdings of the Associated Cement Companies are distributed as follows:—

<i>Holding No. of Rs. 100 Units</i>	<i>No. of shareholders in each group</i>	<i>Percentage</i>
1—100	28,747	94.70
101—200	980	3.23
201—300	273	0.90
301—400	107	0.35
401—500	65	0.21
501—600	41	0.14
601—700	19	0.06
701—800	20	0.07
801—900	16	0.05
901—1000	3	0.01
1001—5000	70	0.23
5001 and above	15	0.05
	<hr/> 30,356 <hr/>	<hr/> 100.00 <hr/>

Of the 85 shareholders who own 1,000 shares or more 43 are private individuals, and the remainder are investment trusts, insurance companies (most of them now nationalised), and other public bodies which in their turn are owned by a large number of shareholders. The 43 private shareholders together own 8 per cent. of the issued stock. Therefore, 92 per cent of the Associated Cement Companies' capital is held by a wide cross section of Indian society consisting of individuals and families who have invested their savings in this company.

7. If the present provisions of the Bill are not changed, the effect will be that every rupee invested in a joint stock company by the small investor will be taxed, while it would have gone scot free if it had not been so productively utilised. The unfortunate implications of this do not need elaboration.

8. The Bill, as amended, exempts a certain class of companies such as those engaged in shipping, banking, insurance and investment. It is difficult to see any justification for restricting exemption to these companies alone. While their exemption is welcome

since they are playing an important role in our economy, it is no less true that companies engaged in the production of cement, automobiles, textiles, steel or locomotives, are just as vital to our economy.

9. While I do not wish to ignore the fact that in the Bill, as it has now emerged from the Select Committee, certain concessions have been made in favour of certain classes of companies, I regret my inability to agree to the application of this tax to joint stock companies at all.

10. There are certain other specific features of the Bill in regard to which I am constrained to express my dissent. One of these is that the Bill, in contra-distinction to the recommendation by Professor Kaldor, would lead to the over-all taxation in the case of certain individuals being substantially more than 100% of the income. This, in fact, introduces an element which can only be described as a capital levy. In no country of the world, as far as I am aware, has a capital levy been imposed as an annual feature.

11. Another discriminatory feature is the distinction between those who own their homes in towns and those who do so in rural areas. While the latter are exempt, the former are not. I believe it would be sound public policy to encourage citizens to build homes for themselves, wherever they may reside.

12. The Bill also discriminates unfairly between different classes of officers and employees. Some persons on retirement get a pension while others get provident fund benefits and retirement gratuities instead. The Select Committee did not accept a proposal that provident fund monies and retirement gratuities should be exempted. The result is that those who draw pensions (mainly certain categories of Government officials) spread in small amounts over the years are not affected, while those whose old age benefits are capitalised are prejudiced.

13. Finally, I believe that the limit of Rs. 10,000/- on tools and instruments needed for professional and vocational purposes is unfair to surgeons, engineers and others. Investment in such instruments is productive, it advances the public interest and it should not be thus discouraged.

M. R. MASANI.

NEW DELHI;

*The 14th August, 1957.*

## II

Few persons will deny the need for supplementing taxes on income by a tax on wealth. In a period of rising prices and economic development, when the State is levying taxes on the consumption of the less fortunately circumstanced sections of our society, equity requires that we should raise taxes on the better-off sections of our community. Progression in the rates of income-tax, widening of the concept of taxable income, particularly during the past few years, aim at obtaining more resources from the rich. Nonetheless, an income-tax however progressive, does not take into account fully the advantages that accrue from the possession of property, and which give an individual a preferential position over others who derive their income from effort.

While agreeing that it is necessary and desirable to tax wealth, one has to point out that beyond a point, taxation of wealth, irrespective of, and in addition to, the income derived from it, can be iniquitous. In spite of the modifications made by the Select Committee, I am of opinion that the present tax proposal is iniquitous or positively harmful in the following respects:

1. The treatment of tools and instruments necessary to enable the assessee to carry on his profession or vocation, subject to a ceiling limit, is unsatisfactory.
2. The levy of a tax on the assets of companies without providing for adequate rebate.
3. The absence of a limit on the total amount of tax to be collected from an individual, or a Hindu undivided family, by way of wealth tax, income-tax, and super-tax.

In fact, one of the important lacunae in the present measure is its failure to give due consideration to several types of assets which are either necessary or desirable, from a social point of view. I can see no valid reason why any limit should be placed on the exemption to be granted for the possession of tools and instruments necessary to enable the assessee to carry on his profession or vocation. Implicitly we have agreed to treat tools and equipment differently from other types of assets. In other words, equipment used is to be treated differently from the possession of wealth as such. The tools and instruments used by a surgeon or architect or engineer, unlike the stock-in-trade of a trader or retail merchant, are necessary aids to the exercise of their skill. These professions perform a socially useful function, not only by applying their knowledge and technique to specific tasks, but also by helping to create a cultural and scientific environment in the area of their operations. A tax on professional equipment will only result in slowing down progress in these skills and arts. The effect of such a tax may well

lead surgeons and medical practitioners either to slow down their investment in professional equipment, or if they have invested in such equipment, to move away from relatively small towns to larger towns, where they can charge more fees and obtain more income. In other words, by this tax, we are making it difficult for communities in small towns to enjoy the services of efficient surgeons and architects. Besides having exempted books which are aids to the exercise of the lawyers' skill, one cannot justify the discriminatory treatment meted out to members of other professions who may be presumed to play as important a role as lawyers, in the shaping and moulding of our society. Incidentally, it may be pointed out that, by granting an exemption of this kind, the State will not lose much in the shape of tax receipts, and even if it does, it will be counter balanced by advantages that accrue to society, by granting an exemption without limit to the tools and equipment used by assesseees to carry on their professions or vocations.

#### *A wealth tax on Companies*

It is regrettable that the Select Committee should have decided to accept the Finance Minister's proposal to levy a wealth tax on Companies. One can object, on social and moral grounds, to an individual possessing a large amount of wealth. But no objection can be raised to a steel mill having large assets. The distinction between an individual and a Company is that, while the possession of a large amount of wealth by the former gives him a preferential advantage over his neighbours and makes for an unequal society, the possession of a large volume of assets by itself does not necessarily improve the position of a Company. The acquisition of large assets by Companies is generally determined by purely technical considerations and, even within an industry, it does not follow that the larger-scale units are necessarily the most efficient.

Progression in wealth tax, justifiable in the case of individuals, would be totally irrelevant in respect of Companies, and this has been recognised even in the present Wealth Tax Bill, where a flat-rate of half per cent is levied on the assets of Companies. However, two consequences flow from taxing Companies as well as individuals, by the same authority.

Firstly, the assets of a Company are taxed, or taxed once more, when they reach the hands of those who come within the orbit of the wealth tax. To the extent shares of a Company are held by people belonging to wealth tax brackets, there is double taxation.

Secondly, a conflict arises in principle because a part of the wealth held by an individual not subject to wealth tax nonetheless becomes fortuitously liable to the payments of wealth tax at half per cent rate.

In other words, whatever be the person's total assets he gets involved in one or two things. Either he has to pay tax on that part of his wealth which has already been taxed once, or else a part of his assets attract tax even when the rest do not. No doubt, the Select Committee have attempted to mitigate the injustices that flow from such taxation, by providing concessions, such as a tax holiday for five years, in the case of certain specified Companies, exemption of intercorporate investment, and exemption of Companies which make losses. But these are at best palliatives and do not touch the heart of the matter. The argument that considerations of revenue dictate the imposition of such a tax is important. But it has to be qualified by broader considerations of equity and efficiency of a tax measure, and these cannot be neglected purely for considerations of revenue.

What is the remedy? The remedy to this anomaly is either to abolish the tax on Companies altogether, or at least to provide for a wealth tax rebate in the case of those who attract liability, irrespective of the bracket to which they belong, and of those who are not liable to pay wealth tax, but on whose share of equity Companies pay tax. It may also be pointed out that this tax will penalise precisely those Companies which are expanding at a faster rate than others.

#### *A continuing capital levy*

I regret that recommendation to place a limit not exceeding 100 per cent on the amount that should be collected in the shape of annual taxes from an individual or Hindu Undivided family every year, by the tax-gatherer should not have found favour. The objective of such taxation, as distinct from a capital levy, or an estate duty, is to tax wealth, and the presumption is that it will be paid out of accrued income from wealth. Indeed, this is one of the main reasons for keeping tax rates low, and for making them part of an integrated system where income-tax and super-tax rates do not exceed a specified limit. As soon as all the annual taxes taken together go beyond 100 per cent of an individual's current income, the total tax payment, inclusive of wealth tax, income-tax, super-tax and capital gains, constitute a continuing capital levy. Inasmuch as a person reducing his property will also reduce his income, it may be presumed that the incidence of this type of capital levy can, in certain circumstances, be quite drastic and arbitrary. Let it be realised that if our marginal rates of tax swallow up current income, and also the assets year after year, what we are doing in effect is to put a ceiling not only on income, but also on capital a policy which cannot commend itself to most progressive social thinkers and those who wish the Plan well. In fact, Mr. Kaldor,



on page 12 of his Report on Indian Tax Reform, has rightly opposed attempts to fix a ceiling on income and on capital. In Parliament, the Prime Minister, in a closely-reasoned defence of the Second Five Year Plan, stigmatized all attempts at putting a ceiling on incomes as totally irrational.

However, in defence of this continuing capital levy, two considerations are urged. Firstly, it is pointed out that people will not reduce their net income, that they will maintain the same net income after tax by shifting their capital into securities, with better prospects of capital appreciation. Secondly, the number affected will be few, and that even if a certain amount of loss of property takes place, the effect of such a loss would not have any consequences on the economy, even if the loss be a continuing loss. I confess I find it difficult to appreciate the significance of these arguments. With present high rates of taxation, there is a general presumption that those affected have already shifted their capital into securities which yield most. Secondly, I am yet to learn that a continuing capital levy will lead to a change in the portfolio of investments which would leave the capital intact, and not absorb the whole of an individual's income!

Nor is it a valid argument to suggest that the numbers affected will be few; the holders of property are, in any case, few, and the holders of larger properties are fewer still. One may even view with equanimity the diminution in assets of such holders of property, provided they are functionless elements in our society, or the functions that they perform can be taken over by the State.

Let us also realise that no other country in the world has permitted annual taxes to reach the limit of 100 per cent and beyond. Indeed, Sweden, a model in many respects of progressive socialism and a welfare State, has put an 80 per cent limit on the amount that can be collected from the individual. In other words, the State allows the tax-payer to retain at least 20 per cent of his income for his use. Perhaps one of the advantages of such restraint is the decrease in tax evasion in that country.

I have no doubt that the consequences of a continuing capital levy are serious, that it will affect capital formation and charitable endowments, precisely because it is from these sectors that the bulk of risk-capital and institutions which fulfil a social need have come into being. Unless we are in a position to take over the functions of supplying risk-capital and providing charities on a large scale, we should not play with society. One can easily realise that some of the institutions like the Indian Institute of Sciences in Bangalore, which fulfil a vital social need, would not have come into being, but for the provisions made by large-scale savers out of their

funds. Circumstanced as we are, we are not in a position to take over such functions. It ought to be clear that for years to come; 'public saving', even on the most optimistic estimate, cannot rise sufficiently fast to compensate for the continuing diminution in assets of these groups, year after year. Indeed, it may be safely affirmed, taking account of the various factors that work in our society, that 'public saving', either in the nationalised enterprises, or in the administrative branches of our Government, cannot be of a significant character. The net result of such a continuing capital levy will be either to prevent the coming into being of institutions which fulfil a social need, or to slow down the growth of such institutions in a society which is hungering for them. Such a levy will lead to a society which will be relatively impoverished, and on balance, will not promote the interests and goal of a more equal society, or of a progressively developing economy. Therefore Parliament, the Prime Minister and the Cabinet will have to consider seriously whether we should have annual taxes, which, taken together, in certain circumstances, constitute a continuing capital levy.

A. KRISHNASWAMI.

NEW DELHI;  
*The 14th August, 1957.*

### III

The Wealth Tax measures was devised to cover the gap left in the revenue due to the reduction of the maximum scales of income-tax and super-tax from 91·6 per cent to 77 per cent on earned and 84 per cent on unearned income as also to yield about an equal amount of additional revenue to the exchequer consistent with the country's avowed goal of the attainment of a socialistic pattern of society. But the exemptions provided now have so greatly reduced the scope of the Bill that it may hardly fulfil the desired objectives.

RAM SUBHAG SINGH.  
G. S. MALKOTE.

NEW DELHI;  
*The 14th August, 1957.*

### IV

Although the popular impression is that the exemption limit for an individual in regard to wealth tax is Rs. 2 lakhs, in actual practice it will be much higher on account of various allowances and concessions provided in the Bill. The scope of such allowances and

concessions has now been still further widened by the Select Committee. In keeping even with the structure of the Bill as originally presented, I feel the exemption limit for an individual in regard to wealth tax should be reduced to Rs. 1½ lakhs. This should be considered quite fair particularly in view of the concession allowed under clause 5(ix). Unless Government are satisfied that a substantial additional amount would be collected in the form of small savings as a result of this concession, it should be cancelled and the clause should in that case be deleted.

I also feel that to help small companies, the exemption limit for companies may be raised a little, say, to Rs. 7 lakhs. As it is, the smaller companies suffer from many handicaps. They usually take much longer to reach a profit-earning stage, and the profits they make are also often much smaller than those of the larger companies. In consonance with our general policy of helping the weaker elements in society, some concession to smaller companies was deserved. To make up for any loss of revenue on this score, I would suggest that a higher slab of 2% might be introduced in respect of the rate to be applicable to the net wealth of an individual exceeding, say, Rs. 2½ lakhs.

I also feel that clause 5(1a) and the proviso to clause 4(1) (a) should be deleted.

BIMAL KUMAR GHOSE.

Received on the 14th August 1957.

V

*All Taxes should not exceed 100% of One's Income*

I feel that with the introduction of the Wealth-tax, the concept of Socialist Pattern of Society will come into direct conflict with the fundamental principles of the Constitution, which in Article 39 (a) says, "The citizens, men and women equally, have the right to an adequate means of livelihood". In a large number of cases where the incidence of tax exceeds the income, it is not in accordance with the spirit of the Constitution. In the race between an individual's income and Government taxes in several cases, the income will lag behind and people will begin living on capital rather than on income. Though the taxes on wealth and income are intended to be complementary, they are not integrated according to the present proposals, since an integrated tax structure should have a healthy provision that the total incidence of taxes shall not exceed the total income of an individual. Prof. Kaldor's report, from which the inspiration has been drawn for introducing this tax, contains that the annual tax on wealth should be "well within the total accrual from property" and should "take into account the other taxes on accruals, in particular, the income-tax". The pre-requisite for the introduction of the

new taxes, as the Kaldor Report goes on to add, is that the maximum rate of tax on income should not exceed 45%, whereas the present maximum rates of income-tax are 77% and 84% on earned and un-earned income respectively. Consequently, Wealth-tax as proposed by Government would have an inherent tendency to cause the disappearance of private property. Further, distribution of wealth should be so planned as not to disturb the incentives for production and yet go to raise the standard of living of the citizen.

*Wealth Tax on Companies should not be levied:*

2. With the insensitive capital market and the low rate of capital formation in India, I feel that it is inadvisable to impose the Wealth-tax on joint stock companies at this juncture. Taxing the resources of these companies will mean taxing productive capital and corporate savings in the country, which are now more needed than ever. It cannot be ignored that even after the proposed channelling of the flow of major portion of investments towards public sector by allowing definite exemptions, the residue of incentive left, after the increase in the rates of Income-tax and Coporation Tax on companies, increase of Bonus Tax from 12½% to 30%, the 'Excess' Dividend Distribution Tax, Compulsory Deposit Scheme and Capital Gains Tax, will be negative.

However, I suggest that if Wealth-tax is to be imposed at all it should be imposed beyond a certain basic necessary profit earning capacity of a joint stock company.

While in principle the fact may be accepted that by the tax being more than 100% of an individual's income, it may result in a person making his wealth more productive by greater effort and better utilisation of wealth, the goal of greater productivity should also be borne in mind, which will hardly be possible when the consumption of capital takes place. Since Wealth-tax does not distinguish between earning and non-earning assets, certain type of persons—mainly non-industrialists—will be at a disadvantage as a result of possessing low-yield or no-yield securities or assets. It must be accepted that all persons who fall in the category of possessors of wealth do not necessarily have the same capacity to make wealth productive.

*Basic Allowance to Hindu Undivided Family to be raised to Rs. 5 Lakhs :*

3. The basic allowance of Rs. 4 lakhs allowed for a Hindu Undivided Family is inadequate, as the composition of the wealth of such an institution will necessarily be different from that of an individual—mostly in indivisible units with various claims of ownership. As such, at least Rs. 5 lakhs of wealth should be recognised as basic exemption limit for Hindu Undivided Families, considering that even an individual gets an exemption of two lakhs of rupees.

---

*One House should be free from Wealth Tax to all citizens:*

4. A residence free from Wealth-tax, whether in rural or urban area, should be allowed to a citizen as his shelter. The full enjoyment of the self-occupied property should be guaranteed as a right without being interfered with by the Wealth-tax. In India, where the instinct to possess a house is inherent from the richest to the poorest, the owning of a house should not be discouraged.

*Exemption for Tools & Instruments for Professionals:*

5. The tools and instruments or any specialised equipment essential for a profession, vocation or occupation should be exempt, as they form the 'Capital' without which the efficiency of operations could hardly be maintained. By way of illustration it may be pointed out that the tools and equipments of the Medical profession are complementary to the efficiency of a doctor.

*Exemption of Superannuation benefits of all kinds*

6. The Wealth Tax Bill discriminates between pensions, provident funds and gratuities. Among the employees on superannuation who are eligible to pension, gratuity or provident fund, only those who receive pensions are benefited in the matter of exemption, while employees receiving provident funds and gratuities are subject to Wealth tax. The nature of the award of superannuation benefits are the same, but the discrimination made in the Wealth-tax Bill is undesirable in a democratic set-up.

*Reopening of Assessments—Limitation of Period:*

7. Harassments to the tax-payer due to undue reopening of cases after the expiry of long interval still remains and at any time within 8 years or 4 years as the case may be, the reopening of assessments is allowed. With the increasing complexities of other taxes, which too are reopenable after a number of years, the limit for reopening such cases should be limited to three years and two years for cases mentioned in Clause 16(a) & (b) respectively in the case of Wealth-tax, which is a new experiment in India and is obtainable in no large democracies of the World like U.S.A., U.K., France etc., which are the countries we have been following for their democratic principles.

Further, to complete 36,000 Wealth-tax assessments every year, comprising of 26,000 individuals, 4,000 Hindu Undivided Families and 6,000 companies assessable under this Tax, will be a colossal task, not to say of the additional repeated harassments that will result to the tax-payer.

*Lower Rates of Tax Essential:*

8. The difference in slabs of the Wealth-tax in percentage is too steep and the maximum rate is too high. It is therefore suggested that the rate of difference should not exceed 0.25%, subject to the maximum rate not exceeding 0.75 % on the balance of net wealth.

*Wealth Tax in other countries:*

9. It is of interest to note here that while the rate of Wealth-tax prevalent in other countries has been shown as higher than that proposed in India, the *per capita* income of these countries and the income-tax and other tax structure prevalent there have not been taken into consideration. The following Table shows that in Sweden even with such a high *per capita* income as Rs. 4,912, with the proviso that the total incidence of taxes on Wealth and Income put together shall not exceed 80% of the income of an individual, it has only 1.8 % as the maximum rate of Wealth-tax:

Country where Wealth-tax is levied	Per capita income		Max. rate of Wealth-tax
India	Rs.	269*	1.5 %
Denmark	"	3,654	2.0 %
West Germany	"	2,690	0.75 %
Netherlands	"	2,650	0.50 %
Sweden	"	4,912	1.8 %
Norway	"	3,050	1.75 %

(\*In 1951)

*Wealth Tax in India:*

10. Since India is already over-burdened with taxes and with an extremely novel and experimental tax like the Expenditure-tax being introduced simultaneously with the Wealth-tax, it is suggested that the Wealth-tax should be tried as an experiment in the first case, keeping the limits of the tax as low as possible and bearing in mind the harassment factor above all. For a citizen to be useful to his nation and society, he must have reasonable amount of time to devote to the service of his country and countrymen and at the same time have a mind reasonably free from worry. The introduction of Wealth and Expenditure Taxes will provide a citizen with neither peace of mind nor time to give his best to the nation

KARNI SINGH.

NEW DELHI ;

The 16th August, 1957.

## VI

The country is facing with two problems. At one end tax evasion is said to be on increasing level. At the other end tax payers complain about harassment by the tax collectors. Both these complaints are not contradictory in nature. Strangely, both result in giving further scope for corruption. Therefore, our main problem is to face this menace of corruption. One of the ways would be to limit the scope of discretion to the tax collectors.

With this view I would suggest modification of Clause No. 7. There I would like that the tax assessee is given an option. He gives his final valuation of every item. The government either accepts this valuation or purchases the disputed items at that valuation. Because of the danger of purchase, assessee cannot dare to give lower value. Since the tax collector has no third option, *viz.*, to increase the valuation, harassment would be completely eliminated.

This suggestion was rejected as it was thought impracticable. Further, there was a possibility of corrupt Wealth-tax Officers accepting higher prices. So it was said that it would give further room for the corruption. Thus, it was feared that the business community instead of paying wealth tax may gather more wealth, adding the disposal of this purchased property, a new problem for the Government.

This could easily be remedied. The Wealth-tax Officers may be asked to refer the matter to the Commissioners of Wealth Tax on whose recommendation alone he would purchase the property. Moreover, the Wealth-tax Officers are expected in their reports to furnish such details, as the market quotation of that particular property and he may even disclose the names of possible buyers.

Alternatively, I suggest a modification of Clause No. 16. The Wealth Tax Officer would have an option to ask the assessee his final valuation. On receiving this valuation, Wealth-tax Officer has option either to accept it or purchase the property at the valuation price or reject it and go further with his own assessment. Administration would lose nothing and yet they have a weapon to get a fair valuation from the assessee himself.

Administration is generally averse to limiting the discretionary powers of their officers. I think in a democratic era it is not good. Without loss in the authority of Wealth-tax Officer and in fairness to the assessee, I would limit these discretions, wherever they are possible. Rules, rather than discretion, should prevail.

2. The dwelling house exemption has been given only to (1) rulers for one palace [*vide* Clause 5 (iii)] and (2) others, when the house is situated in 'any place with a population not exceeding ten thousand and which is more than five miles distance from any area for which there is a Municipality' [*vide* Clause 5(iv)]. It is not fair to the city dwellers. When we give exemption even to the jewellery, mere ornamental wealth and unproductive in nature to the extent of Rs. 25,000/- [*vide* Clause 5(xv)], why should we reject any exemption to a dwelling house also which fulfils a basic necessity.

I, therefore, suggest that half of the value of the dwelling house, no portion of which is given on rent, be exempted. Alternatively, Rs. 25,000/- may be allowed as dwelling house allowance for the exemption.

H. C. HEDA.

NEW DELHI ;

The 17th August, 1957.

## VII

*Preliminary:* As stated in the objects and reasons of the Bill, the proposed wealth-tax is "an important constituent of an integrated tax structure which Government have been aiming at for some time." Consequently, it is in this broad context that the provisions of this bill have to be viewed.

One of the aims of an integrated tax-structure should obviously be the rationalisation of the ratio between direct and indirect taxes. Viewed from this angle, the effects of the measures of direct taxation sought to be introduced by Government are more than cancelled out by the large dose of indirect taxes. When, at the same time, the direct taxes being introduced have been subjected to an all round dilution, it is apparent that a rational tax-structure is impossible of achievement and the changes being introduced will prove self-defeating.

Agricultural property has been completely excluded from the purview of the Bill on account of constitutional difficulties. The Finance Minister seems to have suggested to the state governments an overhaul of the system of land taxation. Unless this matter too is urgently pursued, the purposes of tax-reform will remain unfulfilled.

In its attempts to have an integrated tax structure, the approach of the Government has generally been of making little changes in the existing taxes and as it would be difficult to impose new and heavy taxes without making such changes, to water down the new tax-proposals. Concessions have been granted to the higher income



groups in the income tax and super tax which have been sought to be off set through lowering the exemption limit of income-tax and some adjustments in the tax on undistributed profits of companies. So that the existing tax-structure remains more or less unchanged.

Consequently, low rates have been proposed for the new taxes sought to be levied and the income expected to accrue to Government from these taxes is also expected to be low. The Finance Minister envisaged an income of about Rs. 15 crores from the wealth-tax, as it was proposed in the original draft bill, while the low rates of the tax are to a certain extent understandable, the liberality with which Government provided for exemptions is not.

In the case of companies, the rates have been kept at a very low flat rate, without proper justification. I agree with the opinion that wealth in our country is concentrated in such a manner that a wealth-tax would be meaningless unless it was also imposed on companies. But then, it is difficult to understand why companies should not be taxed at a higher rate in the higher brackets.

The provisions of the original draft bill, in so far as they required change, needed a tightening up in order to plug loopholes and make the tax effective. Unfortunately the amendments accepted by the majority opinion in the Select Committee have been aimed only at a further dilution of the provisions and the extension of exemptions contrary to the principles behind the tax, against the purposes of the bill and without adequate justification. The bill has been watered down to such an extent that if accepted, the entire purpose of the Bill is likely to be defeated and the wealth-tax reduced to a fake ornament of little value.

I therefore, find it impossible to agree with some of the recommendations made by the majority opinion in the Select Committee, I am giving the clause by clause statement and the reasons of my disagreement below.

*Clause 2 item (e) (iii) original item (f) (iii).*—The very first substantive amendment made by the Committee is bad in principle. Not only that the amendment sought to be made goes beyond the reasons stated by the Committee.

In the draft report of the Committee it is stated, "In the opinion of the Committee, live-stock and animals intended for the personal or household use of the assessee should not be subject to wealth-tax." The original bill had adequate provisions for this. Livestock in the original bill was excluded from the definition of assets and domestic animals were exempted from tax under clause 5 (vi).

The draft report shows no reason why these provisions were not considered adequate, so that, the category of animals has been excluded from the definition of assets. The only purpose behind the amendment seems to be to exempt race-horses. And also perhaps, the large menageries of dogs, elephants and the like, which some people are known to possess.

It is impossible to justify this amendment on any ground. In my opinion the provisions of the original bill should be allowed to stand in this respect.

*Clause 4.*—The definition provided in the 'Explanation' under this clause of an "irrevocable transfer" is clearly such as to provide an easy loophole for the avoidance of tax. Only those transfers should be considered irrevocable for the purposes of this clause which are not recoverable during the life time of the transferee. The words "for a period exceeding six years" should therefore be omitted.

*Clause 5(1) original clause 5.*—In the original clause it was not expressed clearly that the properties exempted under this clause will not be included in computing the net wealth of an assessee. This provision has now been included.

The clause as rephrased gives ample scope for tax evasion as no limit has been set down to which exemption can be secured under this clause. Consequently, this clause can be easily utilised to fraudulently secure total exemption from tax by some and having their tax assessed at a lower rate by others.

It is therefore necessary that a maximum limit of Rs. fifty thousand be set down to which assets exempted under this clause could be excluded in computing the net wealth of an assessee.

*Clause 5(1) (iii) (new clause).*—Under this amendment the official residences of rulers have been exempted from the provisions of this bill.

I cannot understand the reasons for inserting this clause unless we have decided to base taxation policies on sentiment rather than reason. And the 'sentiment too, so far as this clause is concerned, is manifestly contrary to the social objectives accepted by the nation. Is it the intention to perpetuate the anomalies that were inherent in the situation seven or eight years ago?

It is enough that the Government honour the agreements that it made with the rulers. Though, even about those agreements, it is doubtful how far the whole nation can be held bound by them. But it is neither necessary nor desirable to extend these agreements to fresh measures undertaken in the economic or in the political sphere.

This clause is harmful and should be omitted.

*Clause 5(1) (iv) (new clause).*—Under this clause one house belonging to the assessee and used for residence has been exempted if it is situated more than five miles away from any municipality.

I can't see why this exemption should be granted unless it be to provide another loophole. The argument of possible harassment by officials is not very convincing. The proper way to avoid such harassment is to make suitable provisions about the valuation of property and these in my opinion are adequate as provided in the Bill. On the other hand some one may build a palace for himself five miles away from Delhi or any other city and claim exemption under this clause. It should therefore be omitted.

*Clause 5(1) (ix) (xiv) and (xv) original clause 5(vi).*—By certain amendments, furniture, household utensils and other articles of personal or household use have been exempted from wealth-tax.

I have already referred to the exempting of animals provided in clause 2, item (e) (iii). By removing the maximum limit from this clause, exemption can now be claimed without any limit for such items as gold and silver utensils and such wearing apparel as mink coats or saves worth several thousands of rupees each.

By inserting two new clauses, jewellery in the possession of rulers, recognised by the Government as heirlooms, has been exempted without any limit, and other jewellery exempted subject to a maximum of twenty-five thousand rupees.

In this manner the exemption limit in respect of jewellery has been substantially raised, for, in the original Bill jewellery, together with other articles of personal or household use was subject to the same maximum limit.

The exemption of jewellery, in the shape of heirlooms, in the possession of rulers, is also against the broad social objectives of the nation. The perpetuation of such anachronism is highly undesirable and should be actively discouraged instead of being encouraged as is sought to be done here.

Clauses (xiv) and (xv) should therefore be omitted and clause (ix) [original clause (vi)] should be allowed to stand as in the original Bill without any amendment.

*Clause 5(1) (xii) and (xiii).*—Works of art, archaeological, scientific or art collections, books and manuscripts, and heirlooms are sought to be exempted under these clauses.

The argument of encouragement to art or other such pursuits, forwarded in support of these exemptions, is wholly spurious. No

young or promising artist or scientist is known to have risen on account of such support, particularly so in our country. On the other hand, many whose works may now or in future be treasured are known to have starved.

In fact, private collections of art, scientific or archaeological works are a disservice to the community. Persons with money, deprive the people in this manner from benefiting from these works. The proper place for such works are public galleries or museums. I don't see why tax exemptions should be granted for doing a disservice to the community.

Then again, how is it to be decided as to whether a particular article is intended for sale or not. Anything may be claimed to be not intended for sale until it is actually sold.

The objectionable part of these provisions is that to be exempt from tax, things should not be intended for sale, but may freely be given on hire.

These two clauses should be omitted. Books are the only item in them which may be exempted through a separate clause or through suitable amendment in some other clause.

*Clause 5 (1) (xvi) and (xviii) and clause 5 (2) original clause 5 (ix), (x) and (xii).*—It is difficult for me to understand the logic of exempting totally and for all times certain deposits and securities held by the assessee.

In view of the fact that Government is taking upon itself the right of exempting any depositor security from wealth-tax through notification, the statutory provision sought to be made through clause (xvi) is in my opinion unnecessary.

With regard to clause (xviii) it is not clear whether the property received through gallantry or merit awards will be exempt from wealth-tax in perpetuity or only during the life-time of the person actually receiving the award.

It is desirable that Government should have the right to exempt any deposit or security from wealth-tax for a limited period of time.

Clauses 5 (1) (xvi) and (xviii) should therefore be omitted and clause 5 (2) so amended as to include gallantry or merits awards and also to give to Government the right to exempt any deposit or security or any gallantry or merit award from wealth-tax either in perpetuity or for a limited period of time.

*Clause 5 (1) (xxi).*—The word 'substantial' used in this clause is vague and should be clearly defined. An explanation should be inserted in this clause that only that expansion will be considered

'substantial' which requires investment equal to or more than 25% of the share capital of the parent company.

*Clause 18 (1) (i) and (ii).*—The penalty which a wealth-tax officer may impose on those who fail to furnish the return of their net wealth, or fail to comply with a notice under sub-section (2) or sub-section (4) of section 16 or who deliberately conceal the particulars of their assets, is limited to one and a half times the tax or the amount of tax sought to be avoided, as the case may be.

It is well known that tax-evasion takes place in this country on a colossal scale. One of the steps required to stop or at least reduce tax-evasion is the imposition of heavier penalties. In view of the fact that (1) no penalty can be imposed without the consent of the wealth-tax commissioner (2) the limit provided in the Bill is the maximum and not the minimum (3) the penalty imposed is in lieu of prosecution and not in addition to it and (4) it is subject to appeal, the penalty leviable under this clause should be raised to five times the amount of tax or the amount of tax sought to be avoided.

*Clause 36 (1).*—There again, the punishment provided is too low. Provision for punishment becomes meaningless, unless it be deterrent. A fine of Rs. 10 per day comes to only Rs. 300 per month which is too low considering the fact that the Bill deals with the higher brackets in society. To be effective, the amount of fine leviable under this clause should be raised to at least Rs. 20 per day.

*Clause 45 (e) new clause.*—By this clause shipping companies have been excluded from the application of the provisions of this Bill. This amendment is bad in principle and should in no case be accepted.

There have been in the past and there will be in future, many industries which require large capitalisation, which have to be run at a loss for long periods and the margin of profit, if any, is small. There are available to Government many ways in which to help and protect such industries. But exemption from tax is certainly not one of them.

To exempt shipping above under this clause will set up a very bad precedent in principle. Other industries may claim exemption on similar grounds with equal justification. If Government wants to protect the shipping industry, let it be done through other means.

*Clause 45 (f).*—Companies registered under section 25 of the Companies Act have been exempted under this new clause. In view of the provisions made under clause 5 (1) (i) exempting

assets held under any legal obligation for a public purpose of any charitable or religious nature, the new clause is unnecessary. It is true that the assets of some companies registered under Section 25 of the Companies Act would not be covered by clause 5 (1) (i) but such companies in my opinion do not deserve tax exemption. If any company of this category desires exemption, let its assets be put under trust or other legal obligation, and let them be utilized only for public purposes.

This clause should therefore be omitted.

*Schedule: Part I (a) and (b).*—In view of the liberal provisions being made for exemptions, it was only proper that the exemption limits in Part I of the schedule should have been lowered. Unfortunately, not only did the Select Committee not agree to such a lowering, but the exemption limit in the case of Hindu undivided families has been raised to four lakhs. In my opinion the exemption limit in both clauses (a) and (b) should be lowered by half, that is to one lakh and two lakhs respectively.

*Schedule: Part II.*—I am convinced that companies should also be taxed progressively as is the case with individuals and Hindu undivided families. Rule 2 clearly provides for the elimination of double taxation of shares held in a company where the company itself is subject to wealth-tax. Consequently I don't see why companies should be taxed at a flat rate, and that too at the lowest rate provided in the Bill. The rate of tax on companies too should be higher in the case of higher brackets.

Besides, another provision has been made for the exemption from tax of any company in any particular year in which it suffers a loss. On the face of it, this provision seems to be reasonable, but in fact it will only provide another loophole for tax-evasion. It will put a premium on corruption in the department's administration. What I have said about shipping companies holds equally good for other companies running at a loss. Other means are available to government to help and protect those industries. On the other hand, if any company runs at a loss on account of mismanagement, it is all the more reason why it should not be exempted from tax.

Rule 3 through the insertion of this new Rule, the tax on individuals, who are not citizens of India and who are not resident in India, has been reduced by 50 per cent.

This is one of the most objectionable provisions of the Bill. The argument of encouraging foreign capital is again wholly spurious. The discrimination between indigenous and foreign capital brought about by this rule is most harmful, and must not be accepted. The consequence of this rule will not be encouragement to new foreign

capital but merely giving further concessions to foreign capital already in the country which has been exploiting the country for decades. The correct policy with regard to such capital would be its nationalisation without any compensation. To pamper it with further concessions is wrong to the extent of being absurd.

This provision should be omitted.

**Rule 5.**—What I have said about companies incurring losses is equally true for companies whose profits are not enough to cover the amount of tax to which they are assessed.

NEW DELHI;

L. ACHAW SINGH.

*The 17th August 1957.*

## VIII

We regret to have to point out that we differ basically from our colleagues in regard to our approach to the bill. The wealth tax was introduced mainly for two reasons:

- (a) To impose tax on wealth concentrated in the hands of a few and
- (b) To remove existing disparity.

In the words of the Finance Minister the wealth tax was expected "to give us a better basis for assessment of tax liability specially in respect of higher income ranges and will help us to close progressively the loop-holes of tax evasion and corrosion of the tax basis."

It is strange that in the Select Committee the majority of our colleagues were inclined, to grant as much relief as possible to richer sections of the community, completely contrary to the reasons why the wealth tax was being introduced. We may go so far as to say that as a result of certain of the amendments adopted by the majority of our colleagues the bill would become virtually infructuous. As a result of the changes suggested by the Select Committee the revenue expected will decrease to the tune of 3 crores of rupees per year.

In these circumstances, and bearing in mind the sharp inequalities which exist today in the standard of life of our people, we feel it would be wrong for the house to pass this bill as amended. It was our duty in the Select Committee to improve upon and not detract from the provisions of the bill. We say this with all respect but

we have to tell the house where we differ from our colleagues and why.

In Clause 2 no definition of 'debts' has been given. Unless 'debts' is properly defined there will be prolific opportunities for tax evasion. For example we cannot forget that nearly 180 crores of rupees represent arrears of income tax as at present, and if outstanding tax liabilities on 1.4.57 come under the definition of 'debts', then it would be easy for tax evaders to deceive the country further in regard to their assets.

Clause 2(q) introduces a definition of "Ruler" with a view to granting them certain additional concessions which as shall be argued later cannot be accepted. The law should apply to all citizens of India alike and any additional discrimination would not only lead to various complications in the administration of the wealth tax but also should be basically opposed on principles.

In Clause 4—sub-clause 4, the 15th day of May 1957 has been fixed as the date prior to which the wealth tax officer cannot go to verify whether the transfer was bonafide or malafide. This is likely to be another source of evasion. We could easily adopt the phraseology of the bill as originally formulated so that every transfer could be examined and cases of bonafide transfer would naturally secure legitimate relief. Malafide transfers cannot and should not be allowed to be changed into a bonafide one simply because it was done prior to a fixed date. This sub-clause should be deleted.

In Clause 5(i) the words beginning with the "following assets" and ending with "net wealth of the assessee" should be deleted. These words were introduced by the Select Committee but we fear we cannot appreciate the reasons for the same. In the original draft of the Bill these words were, for very good reasons, absent. The house knows that it is customary for purposes of income tax to find out the total income of an assessee. In order to ascertain the slab according to which he is liable to taxation, then to make certain deductions in conformity with the law and finally decide on the assessment on the basis of the net payable tax on it. The ascertainment of the slab is, therefore, important for purpose of taxation. There is no reason to change this procedure in the case of the wealth tax. Certain exemptions necessarily have to be given in regard to the wealth tax, but we are positive that before assessing the wealth tax that is payable the value of the items which are exempted by definition in this clause should be included in order to compute the net wealth of the assessee. Obviously this was the original idea of the Finance Minister when he came before



the houses and we are sorry that now the Select Committee has made an unnecessary amendment.

Clause 5(i) (iii) should, we feel, be deleted. The rulers today have certain exemptions already provided for them, and it is undesirable in the larger interests of the country to amplify those already generous exemptions. There may be instances of rulers living in magnificent mansions, but in developing democratic context there is no reason for us to guarantee the rulers with such taste for high living, exemption from payment of the country's legitimate dues. Besides the incidence of the wealth tax is so small that whoever wishes to continue more or less his accustomed living conditions as a prince should not grudge the payment of a little extra money to the country's hard pressed coffers.

Item (ix) under Clause 5(i) should be suitably modified. This item and item (xv) under the same clause should in our view, be combined, and a clause put in by which, as in the original formulation of the bill, "domestic animals and furniture, household utensils, wearing apparel, jewellery provisions and other articles intended for the personal or house-hold use of the assessee subject to a maximum of Rs. 25,000/- in value" may be exempted.

We propose that item (xiv) of clause 5(i) should be deleted. The exemptions allowed in items 12 and 13 cover most of those articles for which a person might have a kind of sentimental feeling. It does not seem right, however, that jewelleries as described in item (xiv) should be exempted. As noted before rulers have already a number of privileges and exemptions which should not be amplified and they should be made to feel more and more that they are themselves at par with the other citizens of the country. We do not consider that under articles 291, 362, 363 and 366 of the Constitution the Rulers can claim the exemption offered to them under this provision of the Select Committee's Report.

Item (xxi) also, in our opinion, should be deleted. We are surprised that in spite of the revelations made by the Government itself in regard to the conduct of a large section of private sector, these further concessions to private capital are being proposed. During discussions of Company Law and similar matters, facts have been placed before the country by such people as the Finance Minister which have proved that a large number of those who control private capital are guilty of flagrant anti-social practices and that no amount of encouragement to them has cured them of the habit of self-aggrandisement at the cost of the interests of the country. If we think of the last 10 years we have had no wealth tax

of course, nor any expenditure tax and on the contrary, in order to encourage private capital all kinds of concessions had been offered by the Government in the form of development rebate and other methods of helping the private sector. The Select Committee itself had the advantage of being supplied by the Government with a very remarkable list of tax concessions granted over and over again in recent years to private capitalists. In spite of all that, however, the private sector by and large, never put the national interest above their own self-interest. It should be clear to Government, and sometimes our Finance Ministers have admitted it, that unless the capitalist is compelled by law, he will never take steps to develop industry in conformity with the interests of the country's economy. We fear that this item (xxi) will be another handle given to the capitalists for evading taxes.

The proviso to clause 38 should, in our view, be omitted. There is no reason why legal practitioners should be permitted an immunity denied to others associated with the ascertainment of taxation. It is pertinent to recall that the income tax investigation commission has commended strongly on the role of eminent lawyers in assisting the concealment of incomes and evasion of tax payment. There is no reason why a lawyer particularly should have the right of withholding information valuable to the country simply because he chooses to assist the interests of a potential tax evader. We are convinced that by bringing the lawyers on a par with others, we will not be trespassing into the sanctimonious privileges and rights of the profession already recognised.

We are of opinion that sub-clause (a) and (b) of clause 45 should be deleted. We concede that the assets of Banking and General Insurance Companies required to be differently computed. But there is no reason why these Companies which earn huge profits, declare high dividends and even issue bonus shares to the shareholders should be exempted from the scope of the wealth tax. As a matter of fact the secret reserves of many of these Banking Companies are a hoard which the country must tap. If, therefore, a provision is made that the deposits of a Bank's customers will not be included while assets are being computed and a similar provision is made in the case of General Insurance Companies, these categories can very well be included within the scope of the wealth tax.

Sub-Clause (d) of the Clause 45 should also be omitted for reasons already noted in regard to item (xxi) of Clause 5(i).

Turning to the Schedule our suggestion is that the limit of exemption in the case of an individual should be reduced to Rs. one lakh. This is because ample exemptions have already been provid-

ed for and net wealth to the extent of hundred thousand rupees, in the context of our country's miserably low *per capita* income, is a huge amount which certainly warrants special taxation. We suggest also that in the case of Hindu undivided families exemption should only be given upto two lakhs, and not upto 4 lakhs as proposed by the Select Committee. Government knows very well that you want to develop economy, this concept of the undivided family requires badly to be re-examined. It is common knowledge that so far the undivided family has quite often been exploited for purpose of evading taxation and certain sections of the community are enabled by recourse to this concept to hide assets and incomes which otherwise would come under the scope of taxation. There is not only no reason, therefore for increasing the exemption limit originally suggested by Government, but it is more than equitable to give them on exemption of Rs. 2 lakhs.

We suggest that the proviso to part II in the Schedule should be deleted. It is well known that the balance sheets of the companies do not often represent the actual state of affairs and the declaration of dividend is a matter of policy. That policy is determined by a handful of individuals in the case of most of the companies which are likely to come within the ambit of the wealth tax. If this concession is given we shall perhaps have the delectable spectacle of many companies, undeniably flourishing appearing before us as losing concerns. If we do not want to add another instrument to be used by those who are past masters in the art of evasion, we should not agree to this proviso.

Rule 2 which grants relief to the individual in proportion to the shares he holds in companies, is unwarranted. If this relief is given it will bring about a drastic reduction of the revenue and refusal of these reliefs will not cause any real hardship since the assessee is involved, will generally have net wealth to the extent of more than 50 lakhs of rupees.

Rule 5 should also be deleted because the assessee will not be paying more than what is leviable on his wealth during the years the Companies concerned made enormous profits. There can be no reason why the assessee should be granted relief if in a particular year his assets earn comparatively less profits.

We confess we are very disturbed to find that the bill has been definitely whittled down in the Select Committee. The climate of opinion which Government held when the Bill was referred to the Select Committee appears also to have gone through an unhappy alteration. We know of course that vested interests in the country have waged a sustained battle against such economic measures as this bill represents. But it will be a tragedy if Government bows

before the storm raised by such unholy pressure tactics. We are convinced that the bill which in Select Committee should have been improved upon has on the contrary been rendered largely ineffective. We, therefore, consider it our duty to ask the Parliament not to pass the Bill in the form in which it has emerged out of the Select Committee but to make such alterations as would make this measure really helpful towards the improvement of our country's much needed finances.

We are also convinced that the rate of taxation proposed is quite inadequate and nominal. It has been clearly brought in evidence that the wealth tax if levied as proposed in the original bill, will take only 4% to 5% of the net income. Therefore, we recommend to the House, that instead of the slabs of Rs. 10 lakhs recommended, the slabs in the Schedule should be brought down to Rs. 5 lakhs.

It has been often noticed that even the good intentions of Parliament have been foiled on account of deficiencies in the administrative apparatus which we have inherited from the past. In Parliament it was repeatedly pointed out that without effective administration our taxation law will remain largely futile and that administration can only basically improve when Government decides to take employees into confidence, to associate people's representatives at different levels of the administration, improves service conditions and generally creates an atmosphere in which the revenue collecting departments become a field of patriotic activity rather than of hard headed, self-interested transactions, and we recommend that the collecting machinery should be so modified to achieve this object.

We repeat that while this bill is welcome, the shape in which it comes to Parliament from the Select Committee requires radical alteration and we hope that changes in the light of our comments will be agreed to after discussion in the House.

T. C. N. MENON.

PRABHAT KAR.

NEW DELHI;  
*The 17th August, 1957*

## IX

I regret I cannot fully endorse the Report of the Select Committee as presented to the House. It would be quite obvious from the amendments suggested to the Bill in the Report the object which the Bill was intended to serve would not be achieved. The object

of the Bill was to remove corrosion from our tax system and to evolve an integrated tax structure, so as to serve the avowed goal of the attainment of a socialistic pattern of society.

How far the tax evaders would be caught in the wide net of the wealth tax is a matter of conjuncture. With the exemptions already provided for in the original Bill and additional concessions given in the Report the people in the top bracket will derive all the benefits and the people in the middle bracket income will have to shoulder the major burden of the proposed tax on wealth. If one were to calculate roughly, taking into consideration all the exemptions provided for in the Bill, these individuals whose wealth is more than three lacs would come in its purview. Though the companies are not excluded from the purview of the tax the exemptions extended to them provide a very wide area of manipulation of finances in such a manner so as to secure virtual exemptions.

It was expected that tax would yield about 16 crores but if one were to take into consideration the exemptions now provided for in the Report, the treasury would hardly realise from this source, if one were to make rough estimates, to the extent of 10 crores.

People in the upper bracket have already received nearly seven and a half crores, by reduction of upper limits provided for in the Budget. Thus if one were to take into consideration the net benefits that are provided for in the General Budget and the Wealth Tax put together inequitous nature of the net tax system would be quite evident. The financial magnets who control the companies have been further entrenched in their position of monopoly control. As if a Charter to manage the economic affairs of the people in our country, is given to them. All initiative in the field of industry would remain in the hands of well established concerns and men with medium or small resources will have no scope, independently to enter this field. Thus a new era of 'company rule' is being ushered in and therefore one fails to understand how it would help to reach the avowed goal of the attainment of a socialistic pattern of society.

Though I differ from the other concessions given in the Report I fully support the exemption given to the Shipping concerns as it is in our national interest.

NEW DELHI ;

R. K. KHADILKAR.

*The 17th August, 1957.*

## THE WEALTH-TAX BILL, 1957

## ARRANGEMENT OF CLAUSES

## CHAPTER I

## PRELIMINARY

## CLAUSES

1. Short title, extent and commencement.
2. Definitions.

## CHAPTER II

## CHARGE OF WEALTH-TAX AND ASSETS SUBJECT TO SUCH CHARGE

3. Charge of wealth-tax.
4. Net wealth to include certain assets.
5. Exemptions in respect of certain assets.
6. Exclusion of assets and debts outside India.
7. Value of assets, how to be determined.

## CHAPTER III

## WEALTH-TAX AUTHORITIES

8. Wealth-tax Officers.
9. Appellate Assistant Commissioners of Wealth-tax.
10. Commissioners of Wealth-tax.
11. Inspecting Assistant Commissioners of Wealth-tax.
12. Wealth-tax Officers to be subordinate to the Commissioner of Wealth-tax and the Inspecting Assistant Commissioner of Wealth-tax.
13. Wealth-tax authorities to follow orders, etc., of the Board.

## CHAPTER IV

## ASSESSMENT

14. Return of wealth.
15. Return after due date and amendment of return.
16. Assessment.
17. Wealth escaping assessment.
18. Penalty for concealment.

## CHAPTER V

## LIABILITY TO ASSESSMENT IN SPECIAL CASES

## CLAUSES

19. Tax of deceased person payable by legal representative.
20. Assessment after partition of a Hindu undivided family.

21. Assessment when assets are held by courts of wards, administrators-general, etc.
22. Assessment of persons residing outside India.

## CHAPTER VI

### APPEALS, REVISIONS AND REFERENCES

23. Appeal to the Appellate Assistant Commissioner from orders of Wealth-tax Officers.
24. Appeal to the Appellate Tribunal from orders of the Appellate Assistant Commissioners.
25. Power of Commissioner to revise orders of subordinate authorities.
26. Appeal to the Appellate Tribunal from orders of enhancement by Commissioners.
27. Reference to High Court.
28. Hearing by High Court.
29. Appeal to Supreme Court.

## CHAPTER VII

### PAYMENT AND RECOVERY OF WEALTH-TAX

30. Notice of demand.
31. Recovery of tax and penalties.
32. Mode of recovery.
33. Liability of transferees of properties in certain cases.
34. Restrictions on registration of transfers of immovable property in certain cases.

## CHAPTER VIII

### MISCELLANEOUS

35. Rectification of mistakes.
36. Prosecutions.
37. Power to take evidence on oath, etc.
38. Information, returns and statements.
39. Effect of transfer of authorities on pending proceedings.
40. Computation of periods of limitation.

### CLAUSES

41. Service of notice.
42. Prohibition of disclosure of information.
43. Bar of jurisdiction.
44. Appearance before wealth-tax authorities by authorised representatives.
45. Act not to apply in certain cases.
46. Power to make rules.

### THE SCHEDULE

**BILL No. 14-A of 1957****THE WEALTH-TAX BILL 1957**

(AS AMENDED BY THE SELECT COMMITTEE)

[Words underlined or side-lined indicate the amendments suggested by the Committee; asterisks indicate omissions.] **5**

A

BILL

*to provide for the levy of wealth-tax.*

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:— **10**

**CHAPTER I****PRELIMINARY**

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Wealth-tax Act, 1957.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 1st day <sup>15</sup> of April, 1957.

2. In this Act, unless the context otherwise requires,—

\* \* \* \* \*

Definitions.

(a) "Appellate Assistant Commissioner" means a person empowered to exercise the functions of an Appellate Assistant Commissioner of Wealth-tax under section 9; **20**

(b) "Appellate Tribunal" means the Appellate Tribunal appointed under section 5A of the Income-tax Act;

(c) "assessee" means a person by whom wealth-tax or any other sum of money is payable under this Act, and includes <sup>25</sup> every person in respect of whom any proceeding under this Act has been taken for the assessment of the value of his assets;



(d) "assessment year" means the year for which tax is chargeable under section 3;

(e) "assets" includes property of every description, movable or immovable, but does not include—

5 (i) agricultural land and growing crops, grass or standing trees on such land;

(ii) any building owned or occupied by a cultivator or receiver of rent or revenue out of agricultural land:

10 Provided that the building is on or in the immediate vicinity of the land and is a building which the cultivator or the receiver of rent or revenue by reason of his connection with the land requires as a dwelling-house or a store-house or an outhouse;

(iii) animals;

15 (iv) a right to any annuity in any case where the terms and conditions relating thereto preclude the commutation of any portion thereof into a lump sum grant;

(v) any interest in property where the interest is available to an assessee for a period not exceeding six years;

20 (f) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924;

(g) "Commissioner" means a person empowered to exercise the functions of a Commissioner of Wealth-tax under section 10;

25 (h) "company" means a company as defined in section 3 of the Companies Act, 1956, and includes a foreign company within the meaning of section 591 of that Act;

(i) "executor" means an executor or administrator of the estate of a deceased person;

30 (j) "Income-tax Act" means the Indian Income-tax Act, 1922;

(k) "Income-tax Officer" means a person appointed to be an Income-tax Officer under the Income-tax Act;

35 (l) "Inspecting Assistant Commissioner of Wealth-tax" means a person empowered to exercise the functions of an Inspecting Assistant Commissioner of Wealth-tax under section 11;

(m) "net wealth" means the amount by which the aggregate value computed in accordance with the provisions of this Act of all the assets, wherever located, belonging to the assessee on the valuation date, including assets required to be included in his net wealth as on that date under this Act, is in excess of the aggregate value of all the debts owed by the assessee on the valuation date other than,—

(i) debts which under section 6 are not to be taken into account; and

(ii) debts which are secured on, or which have been incurred in relation to, any asset in respect of which wealth-tax is not payable under this Act;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "principal officer", used with reference to a company, means the secretary, manager, managing agent or managing director of the company, and includes any person connected with the management of the affairs of the company upon whom the Wealth-tax Officer has served a notice of his intention of treating him as the principal officer thereof;

(p) "Ruler" means a Ruler as defined in clause (22) of article 366 of the Constitution;

(q) "valuation date", in relation to any year for which an assessment is to be made under this Act, means the last day of the previous year as defined in clause (11) of section 2 of the Income-tax Act if an assessment were to be made under that Act for that year:

Provided that where in the case of an assessee there are different previous years under the Income-tax Act for different sources of income, the valuation date for the purposes of this Act shall be the last day of the last of the previous years\*\*\*\* aforesaid;

(r) "valuer" means a valuer appointed under section 4 of the Estate Duty Act, 1953; 34 of 1953

(s) "Wealth-tax Officer" means the Income-tax Officer authorised to perform the functions of a Wealth-tax Officer under section 8.

## CHAPTER II

## CHARGE OF WEALTH-TAX AND ASSETS SUBJECT TO SUCH CHARGE

3. Subject to the other provisions contained in this Act, there shall be charged for every financial year commencing on and from the first day of April, 1957, a tax (hereinafter referred to as wealth-tax) in respect of the net wealth on the corresponding valuation date of every individual, Hindu undivided family and company at the rate or rates specified in the Schedule.

Charge of  
wealth-tax.

4. (1) In computing the net wealth of an individual, there shall be included, as belonging to him—

Net wealth  
to include  
certain  
assets.

(a) the value of assets which on the valuation date are held—

(i) by his wife to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration or in connection with an agreement to live separately, or

(ii) by a minor child not being a married daughter to whom such assets have been transferred by the individual otherwise than for adequate consideration, or

(iii) by a person or association of persons to whom such assets have been transferred by the individual otherwise than for adequate consideration for the benefit of the individual or his wife or minor child, or

(iv) by a person or association of persons to whom such assets have been transferred by the individual otherwise than under an irrevocable transfer,

whether the assets referred to in any of the sub-clauses aforesaid are held in the form in which they were transferred or otherwise;

(b) where the assessee is a partner in a firm or a member of an association of persons, the value of his interest in the \* \* \* \* firm or association determined in the prescribed manner.

(2) In making any rules with reference to the valuation of the interest referred to in clause (b) of sub-section (1), the Board shall have regard to the law for the time being in force relating to the manner in which accounts are to be settled between partners of a firm and members of an association on the dissolution of a firm or association, as the case may be.

(3) Where the value of any assets is to be included in the net wealth of an assessee in accordance with clause (a) of sub-section (1), there shall be deducted from such value any debts owing on the valuation date by the transferee mentioned in that sub-section in so far as such debts are referable to the assets.

(4) Nothing contained in clause (a) of sub-section (1) shall apply to any such transfer as is referred to therein made by an individual before the 15th day of May, 1957, and the value of any assets so transferred shall not be included in the computation of his net wealth.

(5) The value of any assets transferred under an irrevocable transfer shall be liable to be included in computing the net wealth of the transferor as and when the power to revoke arises to him.

*Explanation.*—For the purposes of this section the expression “transfer” includes any disposition, trust, covenant, agreement or arrangement, and “an irrevocable transfer” includes a transfer of assets which, by the terms of the instrument effecting it, is not revocable for a period exceeding six years or during the lifetime of the transferee.

Exemptions  
in respect of  
certain  
assets.

5. (1) Wealth-tax shall not be payable by an assessee in respect of the following assets, and such assets shall not be included in the net wealth of the assessee—

(i) any property held by him under trust or other legal obligation for any public purpose of a charitable or religious nature in India;

(ii) the interest of the assessee in the coparcenary property of any Hindu undivided family of which he is a member;

(iii) any one building in the occupation of a Ruler declared by the Central Government as his official residence under Paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, or Paragraph 15 of the Part B States (Taxation Concessions) Order, 1950;

(iv) one house belonging to the assessee exclusively used by him for residential purposes and situate in any place with a population not exceeding ten thousand and which is more than five miles distant from any area for which there is a municipality;

(v) any interest in property which, although it has vested in an assessee, is not in his possession or enjoyment by reason of the fact that the time for such possession or enjoyment has not arrived;

5 (vi) the rights under any patent or copyright belonging to the assessee:

Provided that they are not held by him as assets of a business, profession or vocation and no income or benefit accrues to him therefrom;

10 (vii) the right or interest of the assessee in any policy of insurance before the moneys covered by the policies \* \* \* \* become due and payable to the assessee;

(viii) the right of the assessee to receive a pension or other life annuity in respect of past services under an employer;

15 (ix) \* \* \* \* \* furniture, household utensils, wearing apparel, \* \* \* \* \* provisions and other articles intended for the personal or household use of the assessee \* \* \* \* \*;

(x) the tools and implements used by the assessee for the raising of agricultural produce;

20 *Explanation.*—For the purposes of this clause, tools and implements do not include any plant or machinery used in any tea or other plantation in connection with the processing of any agricultural produce or in the manufacture of any article from such produce;

25 (xi) the tools and instruments necessary to enable the assessee to carry on his profession or vocation, subject to a maximum of ten thousand rupees in value;

30 (xii) any works of art, archaeological, scientific or art collections, books or manuscripts \* \* \* \* \* belonging to the assessee and not intended for sale;

(xiii) any drawings, paintings, photographs, prints and any other heirloom not falling within clause (xii) and not intended for sale, but not including jewellery;

35 (xiv) jewellery in the possession of any Ruler, not being his personal property, which has been recognised before the commencement of this Act by the Central Government as his heirloom or, where no such recognition exists, which the

Board may, subject to any rules that may be made by the Central Government in this behalf, recognise as his heirloom at the time of his first assessment to wealth-tax under this Act;

(xv) jewellery belonging to the assessee, subject to a maximum of twenty-five thousand rupees in value;

(xvi) ten year treasury savings deposit certificates, fifteen year annuity certificates, deposits in post office savings banks, post office cash certificates and post office national savings certificates held by the assessee;

(xvii) the amount standing to the credit of an assessee, being a salaried employee, in any provident fund maintained by his employer to which the Provident Funds Act, 1925, applies or which is a recognised provident fund within the meaning of Chapter IXA of the Income-tax Act;

(xviii) the property received by an assessee from Government in pursuance of any gallantry or merit award instituted or approved by the Central Government;

(xix) the value of any shares held by the assessee in any other company in any case where the assessee is a company;

(xx) the value of any shares held by the assessee in any company referred to in clause (d) of section 45, if on the relevant valuation date the provisions of this Act are not applicable to the company by reason of the provisions contained in that section;

(xxi) that portion of the net wealth of a company established with the object of carrying on an industrial undertaking in India within the meaning of the *Explanation* to clause (d) of section 45, as is employed by it in a new and separate unit set up after the commencement of this Act by way of substantial expansion of its undertaking;

Provided that—

(a) separate accounts are maintained in respect of such unit; and

(b) the conditions specified in clause (d) of section 45 are complied with in relation to the establishment of such unit:

5 |        Provided further that this exemption shall apply to any such company only for a period of five successive assessment years commencing with the assessment year next following the date on which the company commences operations for the establishment of such unit.

10 |        (2) Wealth-tax shall not be payable by an assessee in respect of any deposit made by the assessee with the Government or in any security of the Government or of a local authority not specified in clause (xvi) of sub-section (1) which the Central Government may, by notification in the Official Gazette, exempt from wealth-tax; but the value of any deposit or security so exempted shall be included in computing the net wealth of the assessee.

15 |        (3) Notwithstanding anything contained in sub-section (1), wealth-tax shall be payable by an assessee in respect of the assets referred to in clause (xvi), clause (xix), clause (xx) of sub-section (1) or in sub-section (2) for any assessment year unless the assets are held by him—

20 |        (a) in the case of shares in a company, from the date on which the shares were first issued by the company, or for a period of at least six months ending with the relevant valuation date, whichever is shorter; and

      (b) in the case of other assets, for a period of at least six months ending with the relevant valuation date.

25 |        6. In computing the net wealth of an individual or a Hindu undivided family not resident in India or resident but not ordinarily resident in India, or of a company not resident in India during the year ending on the valuation date—

Exclusion of  
assets and  
debts outside  
India.

      (i) the value of the assets and debts located outside India;  
and

30 |        (ii) the value of the assets in India represented by any loans or debts owing to the assessee in any case where the interest, if any, payable on such loans or debts is not to be included in the total income of the assessee under sub-section (3) of section 4 of the Income-tax Act;

35 | shall not be taken into account.

*Explanation 1.*—An individual or a Hindu undivided family shall be deemed to be not resident in India or resident but not ordinarily resident in India during the year ending on the valuation date if in respect of that year the individual or the Hindu undivided family,

as the case may be, is not resident in India or resident but not ordinarily resident in India within the meaning of the Income-tax Act.

*Explanation 2.*—A company shall be deemed to be resident in India during the year ending on the valuation date, if—

(a) it is a company formed and registered under the Companies Act, 1956, or is an existing company within the meaning of that Act; or

(b) during that year the control and management of its affairs is situated wholly in India.

Value of  
assets how  
to be deter-  
mined.

7. (1) The value of any asset, other than cash, for the purposes of this Act, shall be estimated to be the price which in the opinion of the Wealth-tax Officer it would fetch if sold in the open market on the valuation date.

(2) Notwithstanding anything contained in sub-section (1),—

(a) where the assessee is carrying on a business for which accounts are maintained by him regularly, the Wealth-tax Officer may, instead of determining separately the value of each asset held by the assessee in such business, determine the net value of the assets of the business as a whole having regard to the balance-sheet of such business as on the valuation date and making such adjustments therein as the circumstances of the case may require;

(b) where the assessee carrying on the business, is a company not resident in India and a computation in accordance with clause (a) cannot be made by reason of the absence of any separate balance-sheet drawn up for the affairs of such business in India, the Wealth-tax Officer may take the net value of the assets of the business in India to be that proportion of the net value of the assets of the business as a whole wherever carried on determined as aforesaid as the income arising from the business in India during the year ending with the valuation date bears to the aggregate income from the business wherever arising during that year.

### CHAPTER III

#### WEALTH-TAX AUTHORITIES

Wealth-tax  
Officers.

8. Every Income-tax Officer having jurisdiction or exercising powers as such under the Income-tax Act in respect of any individual, Hindu undivided family or company shall perform the functions of a Wealth-tax Officer under this Act in respect of such individual, Hindu undivided family or company.



9. The Board may empower as many persons as it thinks fit to exercise under this Act the functions of an Appellate Assistant Commissioner of Wealth-tax, and on being so empowered the Appellate Assistant Commissioners shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Appellate Assistant Commissioners the same area or the same persons or the same classes of persons they shall perform their functions in accordance with such orders as the Board may make for the distribution and allocation of the work to be performed.

Appellate  
Assistant  
Commission-  
ers of Wealth  
tax.

10. The Board may empower as many persons as it thinks fit to exercise under this Act the functions of a Commissioner of Wealth-tax, and on being so empowered the Commissioners of Wealth-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct and where such directions have assigned to two or more Commissioners the same area or the same persons or the same classes of persons they shall have concurrent jurisdiction subject to such orders, if any, as the Board may make for the distribution and allocation of the work to be performed.

Commission-  
ers of  
Wealth-tax.

11. The Commissioner of Wealth-tax may empower as many persons as he thinks fit to exercise under this Act the functions of an Inspecting Assistant Commissioner of Wealth-tax, and on being so empowered the Inspecting Assistant Commissioners of Wealth-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Commissioner may direct, and where such directions have assigned to two or more Inspecting Assistant Commissioners the same area or the same persons or the same classes of persons they shall perform their functions in accordance with such orders as the Commissioner may make for the distribution and allocation of the work to be performed.

Inspecting  
Assistant  
Commission-  
ers of  
Wealth-tax.

12. The Wealth-tax Officers shall be subordinate to the Commissioner of Wealth-tax and the Inspecting Assistant Commissioner of Wealth-tax within whose jurisdiction they perform their functions.

Wealth-tax  
Officers to be  
subordinate  
to the Com-  
missioner  
of Wealth-  
tax and the  
Inspecting  
Assistant  
Commis-  
sioner of  
Wealth-tax.

13. All officers and other persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Provided that no orders, instructions or directions shall be given by the Board so as to interfere with the discretion of the Appellate

Wealth-tax  
authorities to  
follow orders,  
etc., of the  
Board.

Assistant Commissioner of Wealth-tax in the exercise of his appellate functions.

## CHAPTER IV

### ASSESSMENT

Return of  
wealth.

14. (1) Every person whose net wealth on the valuation date was of such an amount as to render him liable to wealth-tax under this Act shall, before the thirtieth day of June of the corresponding assessment year, furnish to the Wealth-tax Officer a return in the prescribed form and verified in the prescribed manner setting forth his net wealth as on that valuation date: 5 10

Provided that for the assessment year commencing on the first day of April, 1957, the return may be made at any time before the thirty-first day of December, 1957.

(2) If the Wealth-tax Officer is of the opinion that the net wealth of any person is of such an amount as to render him liable to wealth-tax under this Act, then, notwithstanding anything contained in sub-section (1), he may serve a notice upon such person requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be required in the notice, the net wealth of such person as on the valuation date mentioned in the notice. 15 20

(3) The Wealth-tax Officer may, if he is satisfied that it is necessary so to do, extend the date for the delivery of the return under this section. 25

Return after  
due date and  
amendment  
of return.

15. If any person has not furnished a return within the time allowed under section 14, or having furnished a return under that section discovers any omission or a wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made. 30

Assessment.

16. (1) If the Wealth-tax Officer is satisfied without requiring the presence of the assessee or production by him of any evidence that a return made under section 14 is complete, he shall assess the net wealth of the assessee and determine the amount payable by him as wealth-tax. 35

(2) If the Wealth-tax Officer is not so satisfied, he shall serve a notice on the assessee either to attend in person at his office on a date to be specified in the notice or to produce or cause to be produced on that date any evidence on which the assessee may rely in support of his return. 40

(3) The Wealth-tax Officer, after hearing such evidence as the person may produce and such other evidence as he may require on any specified points shall, by order in writing, assess the net wealth of the assessee and determine the amount payable by him as wealth-tax.

(4) For the purpose of making an assessment under this Act the Wealth-tax Officer may serve, on any person who has made a return under sub-section (1) of section 14 or upon whom a notice has been served under sub-section (2) of that section, a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Wealth-tax Officer may require.

(5) If any person fails to make a return in response to any notice under sub-section (2) of section 14, or fails to comply with the terms of any notice issued under sub-section (2) or sub-section (4), the Wealth-tax Officer shall make the assessment to the best of his judgment and determine the amount payable by the person as wealth-tax on the basis of such assessment.

#### 17. If the Wealth-tax Officer—

(a) has reason to believe that by reason of the omission or failure on the part of the assessee to make a return of his net wealth under section 14 for any assessment year or to disclose fully and truly all material facts necessary for his assessment for that year, the net wealth chargeable to tax has escaped assessment for that year, whether by reason of under-assessment or assessment at too low a rate or otherwise; or

(b) has, in consequence of any information in his possession, reason to believe, notwithstanding that there has been no such omission or failure as is referred to in clause (a); that the net wealth chargeable to tax has escaped assessment for any year, whether by reason of under-assessment or assessment at too low a rate or otherwise;

he may, in cases falling under clause (a) at any time within eight years and in cases falling under clause (b) at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 14, and may proceed to assess or reassess such net wealth, and the provisions of this Act shall, so far as may be, apply as if the notice had issued under that sub-section.

Wealth es-  
caping  
assessment.

Penalty for  
concealment.

18. (1) If the Wealth-tax Officer, Appellate Assistant Commissioner, Commissioner or Appellate Tribunal in the course of any proceedings under this Act is satisfied that any person—

(a) has without reasonable cause failed to furnish the return of his net wealth which he is required to furnish under sub-section (1) or sub-section (2) of section 14 or section 17 or has without reasonable cause failed to furnish it within the time allowed and in the manner required; or

(b) has without reasonable cause failed to comply with a notice under sub-section (2) or sub-section (4) of section 16; or <sup>10</sup>

(c) has concealed the particulars of his assets or deliberately furnished inaccurate particulars of his assets or debts;

he or it may, by order in writing direct that such person shall pay by way of penalty—

(i) in the case referred to in clause (a), in addition to the amount of wealth-tax payable by him, a sum not exceeding one-and-a-half times the amount of such tax, and <sup>15</sup>

(ii) in the case referred to in clause (b) or clause (c), in addition to the amount of wealth-tax payable by him, a sum not exceeding one-and-a-half times the amount of the tax, if <sup>20</sup> any, which would have been avoided if the net wealth returned by such person had been accepted as correct.

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard. <sup>25</sup>

(3) No prosecution for an offence under this Act shall be instituted in respect of the same facts in relation to which a penalty has been imposed under this section.

(4) The Wealth-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner of Wealth-tax. <sup>30</sup>

## CHAPTER V

### LIABILITY TO ASSESSMENT IN SPECIAL CASES

Tax of deceased person payable by legal representative.

19. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge, the wealth-tax assessed as payable by such person, <sup>35</sup>

or any sum which would have been payable by him under this Act if he had not died.

(2) Where a person dies without having furnished a return under the provisions of section 14 or after having furnished a return which the Wealth-tax Officer has reason to believe to be incorrect or incomplete, the Wealth-tax Officer may make an assessment of the net wealth of such person and determine the wealth-tax payable by the person on the basis of such assessment, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person if he had survived, require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which might under the provisions of section 16 have been required from the deceased person.

(3) The provisions of sections 14, 15 and 17 shall apply to an executor, administrator or other legal representative as they apply to any person referred to in those sections.

20. (1) Where, at the time of making an assessment, it is brought to the notice of the Wealth-tax Officer that a partition has taken place among the members of a Hindu undivided family, and the Wealth-tax Officer, after inquiry, is satisfied that the joint family property has been partitioned as a whole among the various members or groups of members in definite portions, he shall record an order to that effect and shall make assessments on the net wealth of the undivided family as such for the assessment year or years, including the year relevant to the previous year, if the partition has taken place on the last day of the previous year in which the partition has taken place and each member or group of members shall be liable jointly and severally for the tax assessed on the net wealth of the joint family as such.

Assessment after partition of a Hindu undivided family.

(2) Where the Wealth-tax Officer is not so satisfied, he may, by order, declare that such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family liable to be assessed as such.

21. (1) In the case of assets chargeable to tax under this Act which are held by a court of wards or an administrator-general or an official trustee or any receiver or manager or any other person, by whatever name called, appointed under any order of a court to manage property on behalf of another, or any trustee appointed under a trust declared by a duly executed instrument in writing, whether testamentary or otherwise (including a trustee under a valid deed of wakf), the wealth-tax shall be levied upon and recoverable from the court of wards, administrator-general, official

Assessment where assets are held by courts of wards, administrators general, etc.

trustee, receiver, manager or trustee, as the case may be, in the like manner and to the same extent as it would be leviable upon and recoverable from the person on whose behalf the assets are held, and the provisions of this Act shall apply accordingly.

(2) Nothing contained in sub-section (1) shall prevent either <sup>5</sup> the direct assessment of the person on whose behalf the assets above referred to are held, or the recovery from such person of the tax payable in respect of such assets.

(3) Where the guardian or trustee of any person being a minor, lunatic or idiot (all of which persons are hereinafter in this sub- <sup>10</sup> section included in the term "beneficiary") holds any assets on behalf of such beneficiary, the tax under this Act shall be levied upon and recoverable from such guardian or trustee, as the case may be, in the like manner and to the same extent as it would be leviable upon and recoverable from any such beneficiary if of full age or <sup>15</sup> sound mind and in direct ownership of such assets.

(4) Notwithstanding anything contained in this section, where the shares of the persons on whose behalf any such assets are held are indeterminate or unknown, the wealth-tax may be levied upon and recovered from the court of wards, administrator-general, <sup>20</sup> official trustee, receiver, manager or other person aforesaid as if the persons on whose behalf the assets are held were an individual for the purposes of this Act.

Assessment  
of persons,  
residing  
outside  
India.

22. (1). Where the person liable to tax under this Act resides outside India, the tax may be levied upon and recovered from his <sup>25</sup> agent, and the agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such tax.

(2) Any person employed by or on behalf of a person referred to in sub-section (1) or through whom such person is in the receipt of any income, profits or gains, or who is in possession or has <sup>30</sup> custody of any asset of such person and upon whom the Wealth-tax Officer has caused a notice to be served of his intention of treating him as the agent of such person shall, for the purposes of sub-section (1), be deemed to be the agent of such person:

Provided that—

35

(1) no person shall be deemed to be the agent of another under this section unless he has had an opportunity of being heard by the Wealth-tax Officer as to his being treated as such; and

(2) no agent shall be liable to pay any amount by way of <sup>40</sup> wealth-tax under sub-section (1) in excess of the amount belonging to the person residing outside India and in the hands of the agent at the time the notice of demand is served on him.

## CHAPTER VI

## APPEALS, REVISIONS AND REFERENCES

Appeal to  
the Appel-  
late Assis-  
tant Com-  
missioner  
from orders  
of Wealth-  
tax Officers.

23. (1) Any person,—

5 (a) objecting to the amount of his net wealth determined under this Act; or

(b) objecting to the amount of wealth-tax determined as payable by him under this Act; or

(c) denying his liability to be assessed under this Act; or

10 (d) objecting to any penalty imposed by the Wealth-tax Officer under section 18; or

(e) objecting to any order of the Wealth-tax Officer under sub-section (2) of section 20; or

15 (f) objecting to any penalty imposed by the Wealth-tax Officer under the provisions of sub-section (1) of section 46 of the Income-tax Act as applied under section 32 for the purposes of wealth-tax;

may appeal to the Appellate Assistant Commissioner against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner.

20 (2) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to, or the date on which any order objected to, is communicated to him, but the Appellate Assistant Commissioner may admit an appeal after the expiration of the period aforesaid  
25 if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(3) The Appellate Assistant Commissioner shall fix a day and place for the hearing of the appeal and may, from time to time, adjourn the hearing.

30 (4) The Appellate Assistant Commissioner may—

(a) at the hearing of an appeal, allow an appellant to go in- to any ground of appeal not specified in the grounds of appeal;

35 (b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Wealth-tax Officer.

(5) In disposing of an appeal, the Appellate Assistant Commis- sioner may pass such order as he thinks fit which may include an order enhancing the assessment or penalty:

Provided that no order enhancing the assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) A copy of every order passed by the Appellate Assistant Commissioner under this section shall be forwarded to the appellant and the Commissioner. 5

Appeal to the Appellate Tribunal from orders of the Appellate Assistant Commissioners.

24. (1) Any assessee objecting to an order passed by an Appellate Assistant Commissioner under section 23 may appeal to the Appellate Tribunal within sixty days of the date on which he is served with notice of such order. 10

(2) The Commissioner may, if he is not satisfied as to the correctness of any order passed by an Appellate Assistant Commissioner under section 23, direct the Wealth-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Commissioner. 15

(3) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period. 20

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of one hundred rupees.

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and any such orders may include an order enhancing the assessment or penalty: 25

Provided that no order enhancing an assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement. 30

(6) Where the appellant objects to the valuation of any\*\*\*\* property, the Appellate Tribunal may, and if the appellant so requires shall, refer the question of the disputed value to the arbitration of two valuers, one of whom shall be nominated by the appellant and the other by the respondent, and the Tribunal shall, so far as that question is concerned, pass its orders under sub-section (4) conformably to the decision of the valuers: 35

Provided that if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nominated by 40



agreement, or failing agreement, by the Appellate Tribunal, and the decision of that valuer on the question of valuation shall be final.

(7) The costs of any arbitration proceeding under sub-section (6) shall be borne by the Central Government or the assessee, as the case may be, at whose instance the question was referred to the valuers:

Provided that where the assessee has been wholly or partially successful in any reference made at his instance, the extent to which the costs should be borne by the assessee shall be at the discretion of the Appellate Tribunal.

(8) The valuers may, in disposing of any matter referred to them for arbitration under sub-section (6), hold or cause to be held such inquiry as they think fit, and after giving the appellant and the respondent an opportunity of being heard, pass such orders thereon as they think fit and shall send a copy of such order to the Appellate Tribunal.

(9) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the assessee and the Commissioner.

(10) Save as provided in section 27, any order passed by the Appellate Tribunal on appeal shall be final.

(11) The provisions of sub-sections (5), (7) and (8) of section 5A of the Income-tax Act shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Income-tax Act.

25. (1) The Commissioner may, either of his own motion or on application made by an assessee in this behalf, call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him, and may make such enquiry or cause such inquiry to be made, and, subject to the provisions of this Act, pass such order thereon, not being an order prejudicial to the assessee, as the Commissioner thinks fit:

Powers of Commissioner to revise orders of subordinate authorities.

Provided that the Commissioner shall not revise any order under this sub-section in any case—

(a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal, the time within which such appeal can be made has not expired or in the

case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal;

(b) where the order is the subject of an appeal before the Appellate Assistant Commissioner or the Appellate Tribunal;

(c) where the application is made by the assessee for such revision, unless—

(i) the application is accompanied by a fee of twenty-five rupees; and

(ii) the application is made within one year from the date of the order sought to be revised or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period; and

(d) where the order is sought to be revised by the Commissioner of his own motion, if such order is made more than one year previously.

*Explanation.*—For the purposes of this sub-section,—

(a) the appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner; and

(b) an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

(2) Without prejudice to the provisions contained in sub-section (1), the Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by a Wealth-tax Officer is erroneous in so far as it is prejudicial to the interests of revenue,\* he may, after giving the assessee an opportunity of being heard, and after making or causing to be made such inquiry as he deems necessary pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling it and directing a fresh assessment.

Appeal to the Appellate Tribunal from orders of enhancement by Commissioners.

26. (1) Any assessee objecting to an order of enhancement made by the Commissioner under section 25 may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.

(2) An appeal to the Appellate Tribunal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of rupees one hundred.

(3) The provisions of sub-sections (3) and (5) to (10) inclusive of section 24 shall apply in relation to any appeal under this section as they apply in relation to any appeal under that section.

27. (1) Within ninety days of the date upon which he is served with an order under section 24 or section 26, the assessee or the Commissioner may present an application in the prescribed form and, where the application is by the assessee, accompanied by a fee of one hundred rupees to the Appellate Tribunal requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, if in its opinion a question of law arises out of such order, state the case for the opinion of the High Court. Reference to High Court.

(2) An application under sub-section (1) may be admitted after the expiry of the period of ninety days aforesaid if the Tribunal is satisfied that there was sufficient cause for not presenting it within the said period.

(3) If, on an application made under sub-section (1), the Appellate Tribunal,—

(a) refuses to state a case on the ground that no question of law arises; or

(b) rejects it on the ground that it is time barred; the applicant may, within three months from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case to the High Court, and on receipt of such requisition the Appellate Tribunal shall state the case:

Provided that, if in any case where the Appellate Tribunal has been required by an assessee to state a case the Appellate Tribunal refuses to do so on the ground that no question of law arises, the assessee may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw his application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

(4) The statement to the High Court shall set forth the facts, the determination of the Appellate Tribunal and the question of law which arises out of the case.

(5) If the High Court is not satisfied that the case as stated is sufficient to enable it to determine the question of law raised thereby, it may require the Appellate Tribunal to make such modifications therein as it may direct.

(6) The High Court, upon hearing any such case, shall decide the question of law raised therein, and in doing so, may, if it thinks fit, alter the form of the question of law and shall deliver judgment thereon containing the ground on which such decision is founded and shall send a copy of the judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal and the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgment. 5

(7) Where the amount of any assessment is reduced as a result of any reference to the High Court, the amount, if any, overpaid as wealth-tax shall be refunded with such interest as the Commissioner may allow, unless the High Court, on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to the Supreme Court makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal in the Supreme Court. 15

(8) The costs of any reference to the High Court shall be in the discretion of the Court.

(9) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the High Court under this section. 20 9 of 1908.

Hearing by  
High Court.

28. When a case has been stated to the High Court under section 27, it shall be heard by a Bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or of the majority of such Judges, if any: 25

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it. 30

Appeal to  
Supreme  
Court.

29. (1) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 27 in any case which the High Court certifies as a fit case for appeal to the Supreme Court. 35

(2) Where the judgment of the High Court is varied or reversed on appeal under this section, effect shall be given to the order

of the Supreme Court in the manner provided in sub-section (6) of section 27.

- 5 (3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order for execution to any court subordinate to the High Court.

## CHAPTER VII

### PAYMENT AND RECOVERY OF WEALTH-TAX

- 10 30. When any tax or penalty is due in consequence of any order passed under this Act, the Wealth-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable and the time within which it shall be payable. Notice of demand.

- 15 31. (1) Any amount specified as payable in a notice of demand issued under section 30 shall be paid within the time, at the place, and to the person mentioned in the notice, or if no time is so mentioned, then on or before the first day of the second month following the date of service of the notice, and any assessee failing so to pay shall be deemed to be in default. Recovery of tax and penalties.

- 20 (2) Where an assessee has been assessed in respect of assets located in a country outside India, the laws of which prohibit or restrict the remittance of money to India, the Wealth-tax Officer shall not treat the assessee as in default in respect of that part of the tax which is attributable to the assets in that country, and shall  
25 continue to treat the assessee as not in default in respect of that part of the tax until the prohibition or restriction of remittance is removed.

- (3) Notwithstanding anything contained in this section, where an assessee has presented an appeal under section 23, the Wealth-tax Officer may in his discretion treat the assessee as not being in  
30 default as long as such appeal is undisposed of.

32. The provisions of sub-sections (1), (1A), (2), (3), (4), (5), (5A), (6) and (7) of section 46 and section 47 of the Income-tax Act shall apply as if the said provisions were provisions of this Act and  
35 referred to wealth-tax and sums imposed by way of penalty under this Act instead of to income-tax and sums imposed by way of penalty under that Act, and to Wealth-tax Officer and Commissioner of Wealth-tax instead of to Income-tax Officer and Commissioner of Income-tax. Mode of recovery.

Liability  
of transferees  
of properties  
in certain  
cases.

33. (1) Where by reason of the provisions contained in section 4, the value of any assets transferred to any of the persons mentioned in that section have to be included in the net wealth of an individual, the person in whose name such assets stand shall, notwithstanding anything contained in any law to the contrary, be liable, on the service of a notice of demand by the Wealth-tax Officer in this behalf, to pay that portion of the tax assessed on the assessee as is attributable to the value of the asset standing in his name as aforesaid:

Provided that where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay the tax as is attributable to the value of the asset so jointly held.

(2) Where any such person as is referred to in sub-section (1) defaults in making payment of any tax demanded from him, he shall be deemed to be an assessee in default in respect of such sum, and all the provisions of this Act relating to recovery shall apply accordingly.

Restrictions  
on registration  
of transfer of  
immovable  
property  
in certain  
cases.

34. Where any document required to be registered under the provisions of clause (a), clause (b), clause (c) or clause (e) of sub-section (1) of section 17 of the Indian Registration Act, 1908, purports to transfer, assign, limit or extinguish the right, title or interest of any person to or in any property other than agricultural land valued at more than one lakh of rupees, no registering officer appointed under that Act shall register any such document, unless the Wealth-tax Officer certifies that—

(a) such person has either paid or made satisfactory provision for the payment of all existing\*\*\*\*liabilities under this Act, or

(b) the registration of the document will not prejudicially affect the recovery of any existing\*\*\*\*\*liability under this Act.

## CHAPTER VIII

30

### MISCELLANEOUS

Rectification  
of mistakes.

35. At any time within four years from the date of any order passed by him, or it, the Commissioner, the Wealth-tax Officer, the Appellate Assistant Commissioner and the Appellate Tribunal may, on his, or its, own motion rectify any mistake apparent from the record and shall, within a like period, rectify any such mistake which has been brought to the notice of the Commissioner, the Wealth-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal, as the case may be, by an assessee:

Provided that no such rectification shall be made which has the effect of enhancing the assessment unless the assessee has been given a reasonable opportunity of being heard in the matter.

36. (1) If a person fails without reasonable cause,—

Prosecutions.

5 (a) to furnish in due time any return mentioned in section 14;

(b) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (2) or sub-section (4) of section 16 such accounts, records and documents as are referred to in the notice ;

10 (c) to furnish within the time specified any statement or information which such person is bound to furnish to the Wealth-tax Officer under section 38 ;

he shall, on conviction before a magistrate be punishable with fine which may extend to ten rupees for every day during which the  
15 default continues.

(2) If a person makes a statement in a verification mentioned in section 14 or section 23 or section 24 or section 26 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment  
20 which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

(3) A person shall not be proceeded against for an offence under this section except at the instance of the Commissioner.

(4) The Commissioner may either before or after the institution  
25 of proceedings compound any such offence.

*Explanation.*—For the purposes of this section, “magistrate” means a presidency magistrate, a magistrate of the first class or a magistrate of the second class specially empowered by the Central Government to try offences under this Act.

30 37. The Commissioner, the Wealth-tax Officer, the Appellate Assistant Commissioner and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

Power to take evidence on oath, etc.

5 of 1908.

35 (a) enforcing the attendance of any person and examining him on oath ;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses; and any proceeding before the Commissioner, the Wealth-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code. 5 of 1860.

Information  
returns and  
statements.

38. Where for the purposes of determining the wealth-tax payable by any person, it appears necessary for the Wealth-tax Officer to obtain any statement or information from any individual, company, firm, Hindu undivided family or other person, the Wealth-tax Officer may serve a notice requiring such individual, company, firm, Hindu undivided family or other person, on or before a date to be therein specified, to furnish such statement or information on the points specified in the notice, and the individual or the principal officer concerned or the manager of the Hindu undivided family, as the case may be, shall, notwithstanding anything in any law to the contrary, be bound to furnish such statement or information to the Wealth-tax Officer: 10 15

Provided that no legal practitioner shall be bound to furnish any statement or information under this section based on any professional communications made to him otherwise than as permitted by section 126 of the Indian Evidence Act, 1872. 20 1 of 1872.

Effect of  
transfer of  
authorities  
on pending  
proceedings.

39. Whenever in respect of any proceeding under this Act any wealth-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises such jurisdiction, the authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor. 25

Computation  
of periods of  
limitation.

40. In computing the period of limitation prescribed for an appeal under this Act or for an application under section 27, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded. 30

Service of  
notice.

41. (1) A notice or a requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908. 5 of 1908.

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or to the manager or any adult male member of the family, and in the case of any other association of persons be addressed to the principal officer thereof. 35



42. (1) Subject to the provisions contained in sub-section (2), the provisions of section 54 of the Income-tax Act shall apply to all accounts or in relation to statements, documents, evidence or affidavits given, produced or obtained in connection with or in the course of any proceeding under this Act as they apply to or in relation to similar particulars under that Act subject to the modification that the reference to "any income-tax authority" in clause (d) of sub-section (2) and to the "Commissioner" in sub-section (5) of that Act shall be construed as a reference to "any wealth-tax authority" and to the "Commissioner of Wealth-tax" respectively.

34 of 1953 15 (2) Nothing contained in section 54 of the Income-tax Act shall apply to the disclosure of any such particulars as are referred to in sub-section (1) to any person acting in the execution of this Act or the Income-tax Act or the Estate Duty Act, 1953, where it is necessary or desirable to disclose the same to him for the purpose of this Act or any of the other Acts aforesaid.

43. \*\*\*\*\* No suit shall lie in any civil court to set aside or modify any assessment made under this Act, and no prosecution, suit or other legal proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act.

44. Any assessee who is entitled to or required to attend before any wealth-tax authority or the Appellate Tribunal in connection with any proceeding or inquiry under this Act, except where he is required under this Act to attend in person, may attend by a person authorised by him in writing in this behalf, being a relative of, or a person regularly employed by, the assessee or a legal practitioner or a chartered accountant or any other person having such qualifications as may be prescribed.

*Explanation.*—For the purposes of this section,—

(a) the expression, "a person regularly employed by the assessee" includes any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings;

38 of 1949 (b) "Chartered Accountant" means a Chartered Accountant as defined in the Chartered Accountants Act, 1949.

45. The provisions of this Act shall not apply to—

10 of 1949 40 (a) a banking company as defined in section 5 of the Banking Companies Act, 1949;

4 of 1938. 2183; (b) an insurer within the meaning of the Insurance Act, 1938;

(c) any company \*\*\*\*\* established with the object of financing, whether by way of making loans or advances to, or subscribing to the capital of, private industrial enterprises in India, in any case where the Central Government has made or  
5 agreed to make to the company a special advance for the purpose or has guaranteed or agreed to guarantee the payment of moneys borrowed by the company from any institution outside India;

(d) any company established with the object of carrying on  
10 an industrial undertaking in India in any case where the company is not formed by the splitting up, or the reconstruction of a business already in existence or by the transfer to a new business of any building, machinery or plant used in a business which was being previously carried on:

15 Provided that the exemption granted by clause (d) shall apply to any such company as is referred to therein only for a period of five successive assessment years commencing with the assessment year next following the date on which the company is established, which period shall, in the case of a company  
20 established before the commencement of this Act, be computed in accordance with this Act from the date of its establishment as if this Act had been in force on and from the date of its establishment;

25 *Explanation.*—For the purposes of clause (d), “industrial undertaking” means an undertaking engaged in the manufacture, production or processing of goods or articles or in mining or in the generation or distribution of electricity or any other form of power;

30 (e) any company solely engaged in the business of transporting goods or passengers by ships;

(f) any company registered under section 25 of the Companies Act, 1956;

1 of 1956.

46. (1) The Board may, by notification in the Official Gazette, <sup>Power to make rules.</sup> make rules for carrying out the purposes of this Act.

35 (2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(a) the manner in which the market value of any asset may be determined\*\*\*\*\*;

40 (b) the form in which returns under this Act shall be made and the manner in which they shall be verified;

(c) the form in which appeals and applications under this Act may be made and the manner in which they shall be verified;

(d) the form of any notice of demand under this Act;

(e) the areas for which lists of valuers may be drawn up; 5

(f) any other matter which has to be, or may be, prescribed for the purposes of this Act.

(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of commencement of this Act. 10

(4) All rules made under this Act shall be laid before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following. 15

## THE SCHEDULE

(See section 3)

## Rates of Wealth tax

## PART I

	Rate of tax
(a) In the case of every individual:—	5
(i) on the first rupees two lakhs of net wealth ..	Nil
(ii) on the next rupees <u>ten lakhs</u> of net wealth ..	$\frac{1}{2}\%$
(iii) on the next rupees ten lakhs of net wealth ..	1%
(iv) on the balance of net wealth ..	$1\frac{1}{2}\%$ 10
(b) In the case of every Hindu undivided family:—	
(i) on the first rupees <u>four lakhs</u> of net wealth ..	Nil
(ii) on the next rupees <u>nine lakhs</u> of net wealth ..	$\frac{1}{2}\%$
(iii) on the next rupees ten lakhs of net wealth ..	1%
(iv) on the balance of net wealth ..	$1\frac{1}{2}\%$ 15

## PART II

In the case of every company:—

- |   |                   |
|---|-------------------|
| (i) on the first rupees five lakhs of net wealth .. | Nil               |
| (ii) on the balance of net wealth ..                | $\frac{1}{2}\%$ : |

Provided that in the case of a company which has incurred a net loss in any year computed in the manner hereinafter provided and which has not declared any dividend on its equity capital in respect of that year, the rate of tax for the relevant year shall be *nil*.

The loss referred to in the above proviso shall be computed in accordance with the provisions of sections, 8, 9, 10 and 12 of the Income-tax Act but without deducting the allowances referred to in paragraph (b) of the proviso to clause (vi) of sub-section (2) of section 10, sub-clause (via) and sub-clause (vib) of sub-section (2) of section 10 of that Act or the allowance in respect of any losses brought forward from earlier years.

**Rule 1.**—Where the net wealth of an assessee includes the value of any asset on which wealth-tax is not payable under sub-section (2) of section 5, the amount of tax payable by the assessee shall be an amount bearing to the total amount of wealth-tax which would have been payable on the net wealth had no property been exempt the same proportion as the unexempted portion of net wealth bears to the net wealth.

1 of 1956 *Rule 2.*—Where the net wealth of an assessee not being a company, in respect of any assessment year includes the value of any shares in a\*\*\* company as defined in section 3 of the Companies Act, 1956, the wealth-tax payable by the assessee on his net wealth for that assessment year, computed in accordance with the rates specified above, shall be reduced by the amount, if any, by which the sum of the following, namely:—

(a) that portion of the wealth-tax payable by the assessee computed as aforesaid as bears to the whole amount of the tax, the same proportion as the value of the shares aforesaid included in his net wealth bears to his net wealth,

(b) that portion of the wealth tax, if any, paid by the company in respect of the same assessment year, as bears to the whole amount of the said tax, the same proportion as the paid up value of the shares included in the assessment of the assessee aforesaid bears to the aggregate paid up value of the share capital of the company as on the relevant valuation date, exceeds the amount calculated at the rate of 1·5 per cent. on the value of the shares included in his net wealth.

*Rule 3.*—Where an assessee is an individual who is not a citizen of India and who is not resident in India, the wealth-tax payable by him in respect of any assessment year computed in accordance with the rates specified in this Schedule shall be reduced by an amount equal to 50 per cent thereof.

*Rule 4.*—Where the net wealth of an assessee, being an individual who is a citizen of India, or a Hindu undivided family, includes any assets located outside India, the wealth-tax payable by the assessee in respect of any assessment year shall be reduced by an amount which bears to the amount of tax that would have been payable by the assessee if the rates of tax had been reduced to one-half of the rates specified in this Schedule the same proportion as the value of the assets located outside India as reduced by the debts located outside India bears to the net wealth of the assessee.

*Rule 5.*—Where the profits of a company in respect of any year, before deducting any of the allowances referred to in the second paragraph of the proviso to Part II, are less than the amount of wealth-tax payable by it in respect of the relevant assessment year, the wealth-tax payable by the company for such assessment year shall be limited to the amount of such profits:

Provided that the company has not declared any dividend on its equity capital in respect of that year.

M. N. KAUL,  
Secretary.

2 (791)